

1                               BEFORE THE  
2                               ILLINOIS COMMERCE COMMISSION  
3  
4       IN THE MATTER OF:                               )  
5                               HUNTINGTON PARK                               )  
6       APARTMENTS/DENNIS HUGHES                               )  
7       vs.                               )  
8       COMMONWEALTH EDISON COMPANY,                               )  
9   ) No. 02-0001  
10      Complaint as to failure to                               )  
11      comply with Title 83 in                               )  
12      Aurora, Illinois.                               )  
13   Chicago, Illinois  
14   May 20th, 2003  
15  
16                               Met pursuant to notice at 10:30 a.m.  
17  
18                               BEFORE:  
19  
20                               MR. SHERWIN ZABAN, Administrative Law Judge  
21  
22                               APPEARANCES:  
23                               MR. MARTIN J. KENNEDY  
24                               350 North LaSalle Street, Suite 800  
25                               Chicago, Illinois 60604  
26                               Appearing for Huntington Park  
27                               Apartments/Dennis Hughes;

1 APPEARANCES (Continued)

2 EXELON BUSINESS SERVICES  
MR. RICK BERNET and  
3 MS. FELICIA FRANCO-FEINBERG  
10 South Dearborn Street, Floor 35  
4 Chicago, Illinois 60603  
Appearing for Commonwealth Edison  
5 Company.

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18 SULLIVAN REPORTING COMPANY, by  
19 Barbara A. Perkovich, CSR

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I N D E X

<u>Witnesses:</u>	<u>Direct</u>	<u>Cross</u>	<u>Re-</u> <u>direct</u>	<u>Re-</u> <u>cross</u>	<u>By</u> <u>Judge</u>
D. Hughes	100	131	202 245 253	217 246	179 228 251
R. Childress	262	264	271 274	274 276	270 274

E X H I B I T S

<u>Number</u>	<u>For Identification</u>	<u>In Evidence</u>
Complainant's Ex. No. 2	129	130
Com Ed Cross Exs. 1 through 8	202	
Com Ed Ex. No. 1	277	277

1 JUDGE ZABAN: By the power vested in me by the  
2 Illinois Commerce Commission, I call Huntington  
3 Park Apartments versus Commonwealth Edison.

4 Will the parties please identify  
5 themselves and enter their appearances for the  
6 record.

7 MR. KENNEDY: Yes, your Honor. Let the record  
8 show the appearance of Martin Kennedy appearing  
9 on behalf of Huntington Park Apartments.

10 MR. BERNET: Good morning, your Honor. Richard  
11 Bernet, Exelon Business Services, 10 South  
12 Dearborn, 35th Floor, Chicago 60603. Appearing  
13 on behalf of Commonwealth Edison Company.

14 Also appearing on behalf of Commonwealth  
15 Edison Company, Felicia Franco-Feinberg.

16 JUDGE ZABAN: Let the record reflect that this  
17 matter is set for hearing. In addition,  
18 yesterday I had a conversation with Ms.  
19 Franco-Feinberg and Mr. Kennedy, which I allowed  
20 Mr. Kennedy to file his additional rebuttal  
21 testimony today.

22 And I am also going to grant

1 Commonwealth Edison additional time to prepare to  
2 answer it and to prepare any cross examination on  
3 that rebuttal testimony. So this will actually  
4 be a bifurcated hearing. Before we begin, do we  
5 have any motions by either of the parties?

6 MR. BERNET: No, your Honor. I guess in terms  
7 of the formality of the record, for the record  
8 Com Ed does object, as you know from yesterday,  
9 to the filing of the rebuttal testimony at this  
10 time, but nothing new.

11 MR. KENNEDY: I have no issues.

12 JUDGE ZABAN: Then we begin. Any opening  
13 statements by either of the parties?

14 MR. KENNEDY: We would waive opening  
15 statements.

16 MR. BERNET: Waive opening, your Honor.

17 JUDGE ZABAN: Okay, Mr. Kennedy, it's your  
18 show.

19 MR. KENNEDY: Okay. I would like to have my  
20 witness, Mr. Hughes, sworn in, if we could.

21 JUDGE ZABAN: Mr. Hughes, will you please raise  
22 your right hand.

1 (Witness sworn.)

2 JUDGE ZABAN: Mr. Kennedy, you may proceed.

3 MR. KENNEDY: Your Honor, as an initial

4 housekeeping thing, we have previously submitted

5 the prepared testimony of Dennis Hughes. Shall I

6 have additional copies marked at this point in

7 time?

8 JUDGE ZABAN: No. Are they already on e-docket

9 down in Springfield?

10 MR. KENNEDY: Yes, they are.

11 JUDGE ZABAN: Then we don't -- assuming there

12 is no change in the testimony, we can use those

13 documents, that testimony, just admit them as

14 documents. But make sure we mark them for the

15 record. By that I mean identify them for the

16 record.

17 DENNIS HUGHES,

18 called as a witness herein, having been first

19 duly sworn, was examined and testified as

20 follows:

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1 DIRECT EXAMINATION

2 BY

3 MR. KENNEDY:

4 Q. Mr. Hughes, will you state your name and  
5 spell your last name for the record, please?

6 A. Dennis Hughes, H-u-g-h-e-s.

7 Q. And you are employed by the Huntington  
8 Park Apartments as a management consultant?

9 A. Yes.

10 Q. Let me show you what has previously been  
11 submitted to the office of the chief clerk, same  
12 being a multi page heading, Prepared Testimony of  
13 Dennis J. Hughes. You have had a chance to  
14 review this statement before today, have you not?

15 A. Yes, I have.

16 Q. And are the answers -- your answers to the  
17 questions propounded thereto accurate and correct  
18 to the best of your ability?

19 A. Yes.

20 Q. And you are asking that this be adopted as  
21 your direct testimony this morning?

22 A. Yes, I do.

1 JUDGE ZABAN: Just one quick question,  
2 Mr. Hughes. If I or Mr. Kennedy were to ask you  
3 the same questions today under oath as appear in  
4 this prepared testimony, would your answers be  
5 substantially the same?

6 THE WITNESS: Yes.

7 MR. KENNEDY: Thank you.

8 BY MR. KENNEDY:

9 Q. Mr. Hughes, on Page 2 of the prepared  
10 testimony you talk about in response to an  
11 investigation by the Commission, you indicated  
12 that you -- that there was an informal complaint  
13 identified as such in your answer. Do you recall  
14 who at Commonwealth Edison you dealt with in  
15 regards?

16 MR. BERNET: Your Honor, I'm going to object to  
17 the question. The witness has stated that his  
18 answers are consistent with what he has filed.  
19 To the extent that this is an attempt to get  
20 additional direct evidence into testimony,  
21 Commonwealth Edison objects pursuant to Rule  
22 200.660.



1           We've established a procedure in this  
2   case for filing -- prefiling of testimony. On  
3   the day of hearing to have Mr. Hughes on the fly  
4   try to interject more direct testimony is totally  
5   inappropriate, totally inconsistent with the  
6   Commission's rules and the orders in this case.

7       JUDGE ZABAN: What I'm going to do is I'm going  
8   to allow Mr. Kennedy to question Mr. Hughes about  
9   the informal complaint only, to the extent that  
10   it may clarify or bring additional information  
11   about it. However, I'm not going to allow him to  
12   introduce any additional evidence.

13       MR. BERNET: Okay, well, your Honor, I would  
14   submit that his testimony would constitute new  
15   evidence.

16       JUDGE ZABAN: Well, the point is he has  
17   indicated he filed an informal complaint. If he  
18   wants to expand on the formal complaint, I'm  
19   going to allow him to do it.

20       MR. BERNET: Thank you, your Honor.

21       BY MR. KENNEDY:

22       Q. You may answer the question. Do you

1 recall who at Com Ed you dealt with initially in  
2 the informal complaint?

3 A. At Com Ed was contacted by Jerry Doherty.

4 JUDGE ZABAN: Let me add one additional  
5 proviso. Should this lead to an additional party  
6 you have not been -- that you have not called as  
7 a witness, okay, I will allow you, should it  
8 become necessary, for you to provide testimony  
9 for that witness or produce that witness.

10 MR. BERNET: Thank you, your Honor.

11 MR. KENNEDY: I don't anticipate that  
12 happening, your Honor.

13 JUDGE ZABAN: Okay.

14 BY MR. KENNEDY:

15 Q. Now, Mr. Hughes, in response to the  
16 question as to what the subject matters related  
17 to in your complaint, you stated that they fell  
18 into two main categories.

19 MR. BERNET: Your Honor, I'm going to object  
20 again. We are now beyond the informal complaint  
21 into some other area. It is the same objection.  
22 I understand you gave the witness leeway or gave

1     Huntington Park a little leeway, but I don't know  
2     where they're going with this. They are trying  
3     to sandbag us.

4           JUDGE ZABAN: Well, I don't know what he's  
5     seeking yet, either, at this point. I mean he's  
6     indicated that they fall into two categories.  
7     That we know, Mr. Kennedy. Where are you going  
8     with this?

9           MR. KENNEDY: Well, under the categories he  
10    indicated that there were certain subcategories  
11    such as maximum billing and bills being sent to  
12    wrong addresses or addresses other than our own.  
13    We have disclosed that and I intend to ask Mr.  
14    Hughes to identify some of the billing from  
15    Commonwealth Edison which has heretofore been  
16    provided to Commonwealth Edison via discovery to  
17    elucidate on the issues in 1B and C, your Honor,  
18    on our prepared testimony.

19          MR. BERNET: Your Honor, again, they are trying  
20    to get in substantive testimony that is not in  
21    the prefiled testimony that has been on file for  
22    a long time. And they are not going to give us

1 an opportunity to conduct appropriate cross  
2 examination as the rules provide, and we strongly  
3 object to their trying to supplement the record  
4 at this late date.

5 JUDGE ZABAN: Yeah, I do have a question about  
6 that, Mr. Kennedy. You were provided with an  
7 opportunity to provide testimony from your  
8 witness, okay. And are those bills attached as  
9 part of an exhibit to that testimony?

10 MR. KENNEDY: Not to this exhibit, your Honor,  
11 no. But they are bills that have previously been  
12 disclosed pursuant to discovery. They have been  
13 marked previously and provided to counsel and  
14 it's nothing new, it's copies of bills from  
15 Commonwealth Edison. Rather than burdening our  
16 prepared testimony with copies of bills that had  
17 already been provided.

18 JUDGE ZABAN: Well, Mr. Kennedy, the point is  
19 that is the purpose of your testimony. However,  
20 let me just say this, as it relates to demand  
21 billing, as I read the direct testimony of  
22 Commonwealth Edison, which probably will be

1 provided later on or should be provided later on,  
2 they do admit that they sent them to the wrong  
3 address and they explain it, okay. And I think  
4 the appropriate time for you to get into that,  
5 since it's already on the record, you can cover  
6 that in cross examination.

7 MR. KENNEDY: That's fine. I just didn't want  
8 there to be foundation or other objections if we  
9 pursue the issue at that point.

10 MR. BERNET: There is going to be objection.

11 JUDGE ZABAN: We will deal with the objections  
12 as they arise.

13 MR. KENNEDY: I would ask to strike that  
14 question.

15 JUDGE ZABAN: Okay.

16 BY MR. KENNEDY:

17 Q. Mr. Hughes, in Subparagraph H of Paragraph  
18 1, Section 1 of the same section, the two main  
19 categories, you refer to billing transfers from  
20 Huntington Park Apartments provided to former  
21 tenants; is that correct?

22 MR. BERNET: Your Honor, I'm going to object

1       again.  I mean, we are going down a whole new  
2       road here.

3           JUDGE ZABAN: That's not a new road,  
4       Mr. Bernet.  You know, I have no problem with it.

5           MR. KENNEDY: Clearly these are documents which  
6       have heretofore been provided with the specific  
7       proviso --

8           JUDGE ZABAN: Here is my question, Mr. Kennedy.  
9       Why weren't they filed as part of this exhibit,  
10      okay?  It seems to me if you -- what you don't  
11      introduce by testimony itself, you could have  
12      introduced by having them marked as exhibits and  
13      introduced as exhibits as part of the testimony.  
14      And then you would be totally free to turn around  
15      and question your client about the exhibits.  
16      Notwithstanding the fact that of course they may  
17      speak for themselves, but you chose not to do  
18      that.

19          MR. KENNEDY: So as to not burden --

20          JUDGE ZABAN: It's not a burden.  It's your  
21      obligation to go forward with this indication,  
22      all right.  And you have to provide me with the

1     necessary information.  It's not like -- and I  
2     agree with Mr. Bernet to the extent that had you  
3     chosen not to do prefiled testimony and we did  
4     this as a -- this would be a normal procedure.  
5     But if you are using prefiled testimony, the  
6     whole purpose of prefiled testimony is to turn  
7     around and say this is what our witness would  
8     testify, I waive the foundation, it's now entered  
9     into evidence, your witness, okay.  Not to use  
10    this as a forum for doing your direct.

11               If you can establish this, I think it's  
12    significant, so I'm going to go outside the  
13    rules, I'm going to allow to you do this as to H  
14    only.

15           MR. KENNEDY: Okay, your Honor.

16           JUDGE ZABAN: The truth of the matter is, if in  
17    fact Commonwealth Edison has billed for tenants,  
18    and once again should this take you by surprise,  
19    I will afford you an opportunity to establish  
20    evidence to the contrary.

21           MR. BERNET: Thank you, your Honor.

22           MR. KENNEDY: Without prejudicing anyone, I

1 would like to offer them, this has previously  
2 been provided to counsel as our Exhibit 5 to  
3 discovery.

4 JUDGE ZABAN: Do you have a copy for me,  
5 Mr. Kennedy?

6 MR. KENNEDY: Yes, here.

7 BY MR. KENNEDY:

8 Q. Mr. Hughes, in Paragraph H you testified  
9 about billing transfers from tenants for whom  
10 Huntington Park was not responsible; is that  
11 correct?

12 A. Yes, we did.

13 Q. What is the -- what is the policy as far  
14 as Huntington Park Apartments, when do they  
15 become responsible to the billing --

16 MR. BERNET: Your Honor, I'm going to object, I  
17 don't see anything in H that talks about a policy  
18 of Huntington Park Apartments.

19 MR. KENNEDY: I'll withdraw that question.

20 JUDGE ZABAN: All right, go ahead.

21 BY MR. KENNEDY:

22 Q. Directing your attention, Mr. Hughes, to



1     what has previously been submitted via discovery,  
2     has been marked as -- might I mark this as  
3     Huntington Exhibit 1?

4           JUDGE ZABAN: What is the testimony going to  
5     be?

6           MR. KENNEDY: Testimony is going to be --

7           JUDGE ZABAN: What is the testimony that you  
8     are offering here? Are you going to have -- the  
9     preoffered testimony, you are going to offer that  
10    into evidence, I assume?

11          MR. KENNEDY: Yes.

12          JUDGE ZABAN: So that's your 1.

13          MR. KENNEDY: Yes.

14          JUDGE ZABAN: Complainant's 1. So this will be  
15    Complainant's 2.

16          MR. BERNET: Well, the prefiled testimony is  
17    now being altered, isn't that correct, with the  
18    answers that he's giving to the questions.

19          JUDGE ZABAN: No, it's actually being  
20    supplemented because he's actually introducing  
21    another exhibit. So right now I'm going to mark  
22    the prepared testimony as Complainant's Exhibit 1

1       for identification only, at this point.

2           MR. BERNET: Understood, your Honor.

3           JUDGE ZABAN: And we are going to mark the  
4       bills as Complainant's No. 2 for identification.

5       You may proceed.

6       BY MR. KENNEDY:

7           Q.   Mr. Hughes, directing your attention to a  
8       document that has been marked for identification  
9       as Complainant's Exhibit 2, and you have your own  
10      copy there, could you briefly examine that  
11      document and tell us what that is, for the  
12      record?

13          MR. BERNET: Your Honor, I would just object to  
14      the reference to this being a single document.  
15      It appears to be multiple bills, correspondence,  
16      independent bills, correspondence, handwritten  
17      notes, a fax, what happens to be a fax on the  
18      back, and some kind of billing statement, at  
19      least part of a lease, part of two different  
20      leases, three different leases.  It's not a  
21      complete document, it's multiple documents, it's  
22      not one exhibit.

1           MR. KENNEDY: If I could just have it  
2           identified and then have the witness go through  
3           it. If there are objectionable portions they  
4           certainly can be stricken. But these are all  
5           documents that have heretofore been provided.

6           MR. BERNET: Can you lay a foundation?

7           MR. KENNEDY: Sure.

8           JUDGE ZABAN: Let's call it Group Exhibit 2 for  
9           the time being.

10          BY MR. KENNEDY:

11          Q. Let me ask you to examine, to take a look  
12          at what's been marked for identification as  
13          Huntington Park's Group Exhibit 2. Now it's a  
14          multi-page document, you will agree with me on  
15          that, Mr. Hughes?

16          A. Yes.

17          Q. Could you examine the first six pages of  
18          that document? And when you've had a chance to  
19          do so, could you tell me who received these  
20          documents from Com Ed?

21          MR. BERNET: I'm going to object.

22          MR. KENNEDY: I'm trying to lay a foundation,

1     your Honor.

2           MR. BERNET: Who received these documents from

3     Com Ed?

4     BY MR. KENNEDY:

5           Q. Strike that. Were these received by

6     yourself as manager of Huntington Park, Mr.

7     Hughes?

8           A. The first four pages were, yes.

9           Q. What about page -- the next page, Page 5.

10          A. That was most likely --

11          Q. If you know.

12          A. -- delivered by a tenant to the office at

13     Huntington Park.

14          Q. But you don't know?

15          A. I'm unclear. It definitely was not

16     delivered to our billing address.

17          Q. And the sixth page would also have gone to

18     the Coventry address.

19          MR. BERNET: Can we just have clarification of

20     what the sixth page is, please?

21          MR. KENNEDY: The first four -- if I might,

22     your Honor. The first four appear to be billings

1 sent from Commonwealth Edison to Huntington Park  
2 Apartments at PO Box 275. Fifth page, as well as  
3 the sixth page, appear to be Com Ed statements  
4 delivered to Huntington Park Apartments at 1277  
5 Coventry Place A, in Aurora, Illinois.

6 MR. BERNET: That appears on the fifth page of  
7 my copy.

8 MR. KENNEDY: Okay, you're right, counsel. The  
9 first four pages pertain to Huntington Park.  
10 Page 5 as well as Page 6 would appear to have  
11 been sent to 1277 Coventry Pla.

12 BY MR. KENNEDY:

13 Q. Now, the first four pages, were these  
14 received by yourself as manager of the Huntington  
15 Park Apartments?

16 A. Yes, they were.

17 Q. And is it based upon the contents of the  
18 first four pages that you made the statement in  
19 your prepared testimony as to -- well, what do  
20 the first four pages purport to represent, Mr.  
21 Hughes?

22 A. The first two pages are -- have a service

1 location of 1214 Coventry Place, Apartment A, and  
2 that shows a current bill. And then there is  
3 approximately \$1,476 of transfer charges that are  
4 not specified out where they are transferred  
5 from, but they were just lopped onto the account.

6 Q. And Pages 3 and 4, what do they represent?

7 A. That is also 1214 Coventry Place,  
8 Apartment A, again with \$1,503.58 of transfer  
9 charges put on that account that we don't know  
10 where they were from.

11 Q. Is it your position or the position of  
12 Huntington Park Apartments as expressed in  
13 Paragraph H that these were transfers from  
14 apartments other than your own, those for which  
15 you were responsible for the electric bills?

16 A. We had no way of --

17 MR. BERNET: I'm going to object, there is no  
18 foundation for what this other address is. He's  
19 testified that PO Box 275 is an address where he  
20 receives bills. There is no evidence on this  
21 other location. It's also not mentioned in the  
22 testimony.

1           MR. KENNEDY: Your Honor, we think it is. If I  
2 might be --

3           JUDGE ZABAN: If I may, it's sent to a PO Box,  
4 but the service location is listed as 1214  
5 Coventry under the name of Huntington Apartments.

6           MR. KENNEDY: We would stipulate to that, your  
7 Honor.

8           JUDGE ZABAN: It's not a question of  
9 stipulating, that's what the bill says.

10          MR. BERNET: What I'm saying is there is no  
11 foundation for what that other address is, there  
12 is no testimony.

13          JUDGE ZABAN: What, the Huntington Apartments  
14 Box 275 as it relates to this?

15          MR. BERNET: No, he's testifying about bills  
16 that have service addresses that are not  
17 previously in the testimony and he's not added  
18 more testimony today about those other addresses.

19          JUDGE ZABAN: Okay. As I understand it,  
20 Huntington Apartments is a large complex of  
21 apartments; is that correct?

22          THE WITNESS: 240 units.

1 JUDGE ZABAN: How many addresses,  
2 approximately, does Huntington Park have?

3 THE WITNESS: There's 240.

4 JUDGE ZABAN: I'm talking about how many  
5 different street names are involved here?

6 THE WITNESS: Three.

7 JUDGE ZABAN: What are the street addresses?

8 THE WITNESS: There is Coventry, Huntington and  
9 Nantucket.

10 JUDGE ZABAN: Is 1214 Coventry Place in Aurora  
11 one of the addresses for Huntington?

12 THE WITNESS: Yes, it is.

13 JUDGE ZABAN: Okay, Mr. Kennedy, you may  
14 proceed.

15 BY MR. KENNEDY:

16 Q. 1214 Coventry is not the mailing address  
17 or the service address for Huntington Park  
18 Apartments, though, is it?

19 A. No, it is not.

20 Q. Do you know what 1214 Coventry Place,  
21 Aurora is?

22 A. It's an apartment building with 12 units.



1 JUDGE ZABAN: Is it part of the complex of  
2 apartments we are talking about here?

3 THE WITNESS: Yes, it is.

4 BY MR. KENNEDY:

5 Q. Was this a unit for which Huntington Park  
6 Apartments was responsible for the billing of  
7 electric service?

8 A. This particular unit, I believe this unit  
9 was vacant at that time, yes.

10 Q. Do you know how long the unit had been  
11 vacant at this time?

12 A. At this time, no.

13 Q. Would anything contained further on in  
14 this Exhibit 2 for identification tend to answer  
15 the question as to how long it had been vacant?

16 A. No.

17 Q. So your answer was no; is that correct?

18 A. Yes.

19 Q. Let me ask you this, the services for  
20 which Huntington Park Apartments was billed  
21 pursuant to the first four pages of this are for  
22 what type of service, sir?

1       A. Well, residential usage within the  
2       apartment for the actual current period charges.  
3       We do not know what on the second page nor on the  
4       fourth page were for. These were transfer  
5       charges that were not addressed as to where they  
6       were from.

7       Q. So based upon this billing you had no  
8       idea, Huntington Park had no idea, as to where  
9       the service had been provided?

10      A. No.

11      Q. Moving on to Page 4 of this document,  
12      would you examine the document and tell us what  
13      it is for the record? Is that four or five?

14      A. Five. That is a billing for usage at 1277  
15      Coventry, Unit A.

16      Q. Is that one of the units which, to the  
17      best of your knowledge, at this point in time,  
18      Huntington was responsible for the payments? If  
19      you don't know off the top of your head --

20      MR. BERNET: I'm going to object to the  
21      question on foundation.

22      JUDGE ZABAN: Lay a foundation.

1 BY MR. KENNEDY:

2 Q. What is 1277 Coventry, what is located at  
3 that address, if you know?

4 A. A 12-unit apartment building.

5 Q. And are any of the metered services for  
6 which Huntington Apartments is responsible  
7 contained in this 1277 unit?

8 A. Yes, there is.

9 Q. Is there any way for you -- how did this  
10 document come into your position at Huntington  
11 Park Apartments, if you know?

12 A. I think it was brought in by a tenant.

13 Q. Someone who lived at that unit?

14 A. Yes, or someone who lived in that  
15 building.

16 Q. Did you, at any point in time request --  
17 at this point in time request that the mailing  
18 address for Huntington Park Apartments be changed  
19 from the PO Box in Prospect Heights to this  
20 address?

21 A. No.

22 Q. Is the account number shown on the top of

1     this exhibit --

2           MR. BERNET: Your Honor, I'm going to object.

3     Again, I don't think he's laid a foundation and  
4     it appears to be one page of what is a multiple  
5     page document. It's incomplete, but the fact  
6     that a tenant brought it to him isn't the proper  
7     foundation.

8           JUDGE ZABAN: Actually he said he believes a  
9     tenant, he's not sure. Do you know what happened  
10    to the rest of this document, Mr. Hughes?

11          THE WITNESS: I think this is the only page  
12    that there was.

13          JUDGE ZABAN: Okay. Let me ask you a really  
14    quick question, what are you disputing on this  
15    page? Is it the transfer fees.

16          THE WITNESS: The transfer fees as well as the  
17    laxidaisical approach --

18          JUDGE ZABAN: I just want to know what you are  
19    objecting to, okay. You are objecting to the  
20    transfer service fees; is that correct?

21          THE WITNESS: And billing address.

22          JUDGE ZABAN: Well, you got the bill, didn't

1       you?

2           THE WITNESS: Well, we don't know how many

3       bills we haven't got.

4           JUDGE ZABAN: I'm talking about as far as this

5       bill is concerned, you have the bill, right?

6           THE WITNESS: This particular bill, yes.

7           JUDGE ZABAN: And all you are interested in

8       here is the transfer service?

9           THE WITNESS: Correct.

10       BY MR. KENNEDY:

11       Q. If we could move on to the next page,

12       which I think is Page 6. If I were to ask you

13       the same question, do you know how this bill came

14       into possession --

15       JUDGE ZABAN: Page 6 for me is a letter.

16       MR. BERNET: Page 6 for me is what appears to

17       be another bill.

18       JUDGE ZABAN: I've got a letter in between

19       here. I'll disregard the letter. Are we talking

20       about 1277 Coventry, Place B?

21       THE WITNESS: Service at A.

22       MR. BERNET: What page are we on now?

1           MR. KENNEDY: We are on Page 6.

2       BY MR. KENNEDY:

3           Q.   Would this document have come into your

4       possession basically on the same basis as the

5       preceding one?

6           A.   Yes.

7           Q.   And your complaint about this bill would

8       be the same as the preceding one, mainly transfer

9       --

10          MR. BERNET: Same objection, your Honor.

11       BY MR. KENNEDY:

12          Q.   Transfer services from four other

13       addresses?

14          A.   Yes.

15          Q.   Is there any way, looking at any document

16       contained in what has been identified as

17       Complainant's Exhibit 2, to tell whether any of

18       the units shown on the bottom of Page 6 were

19       occupied as opposed to vacant?

20          A.   The last three pages of the packet

21       contains three leases.

22          Q.   Were they relating to these units?

1           A.   Yes.   Well, they were relating to the  
2   transfer charges that were on there.

3           Q.   Prior to the last three pages --

4           MR. BERNET: Your Honor, I'm going to object.  
5   The question is about leases, it has what appears  
6   to be a partial copy of a partial lease, three  
7   partial copies of partial leases.

8           JUDGE ZABAN: Let me see what's going on here.  
9   I've got 1277 Coventry D, this is from February  
10   21st of 2002.   And shows that Mr. John Davis  
11   would have been leasing the premises on that  
12   occasion?

13          MR. KENNEDY: That's correct, your Honor.

14          JUDGE ZABAN: Are you saying that the  
15   apartments were occupied?

16          MR. KENNEDY: From the period of 8/25/01 to  
17   8/30/02.

18          JUDGE ZABAN: So the apartments on those three  
19   addresses, the apartments were occupied?

20          MR. KENNEDY: They were occupied.

21          MR. BERNET: Your Honor, the document doesn't  
22   say that -- Page 6, which appears to be a partial

1 bill, does not say -- does not have a date on it  
2 that references that apartment number. So, I  
3 mean, to jump to the conclusion that the service  
4 was transferred in this billing period, I think,  
5 is inappropriate.

6 JUDGE ZABAN: Well, I think that's really kind  
7 of the point here, because they don't -- at some  
8 point a transfer was made, but it doesn't  
9 indicate when the transfer was made and what the  
10 service charges -- what the date of the service  
11 charges are from.

12 MR. KENNEDY: Right. And thus we have no way  
13 of telling whether this occurred during the time  
14 when the apartment was vacant or when the  
15 apartment was occupied.

16 JUDGE ZABAN: Off the record.

17 (Whereupon, there was an  
18 off-the-record discussion.)

19 MR. KENNEDY: Was there a question pending,  
20 your Honor?

21 JUDGE ZABAN: There is no question pending, go  
22 ahead.



1 BY MR. KENNEDY:

2 Q. Skipping the next page, which is some kind  
3 of correspondence, Mr. Hughes, and I would not  
4 object to that page being withdrawn and torn out.

5 JUDGE ZABAN: Can I assume, then, for the sake  
6 of expedition here, that all the remaining bills  
7 that you have here all deal with the same issue  
8 of the transfer charges?

9 MR. KENNEDY: That's correct.

10 JUDGE ZABAN: And do you have any other  
11 documents that relate to those transfer charges  
12 in this group?

13 MR. KENNEDY: Well, there are other units that  
14 are involved in addition to 1277, there are other  
15 addresses to which these bills were sent, and  
16 eventually passed along to Mr. Hughes by eventual  
17 tenants. In addition to 1277, there is 1240.

18 JUDGE ZABAN: I'm really not concerned about  
19 that. So it's just the transfer service charges  
20 that are at issue here in this particular  
21 document; is that correct?

22 MR. KENNEDY: That's correct, your Honor.

1 JUDGE ZABAN: Do you have anything further,  
2 Mr. Kennedy?

3 BY MR. KENNEDY:

4 Q. Yes. Mr. Hughes, in the same subsection  
5 and once again, I think we understood why there  
6 are no documents, you indicated that --

7 MR. BERNET: Again, objection your Honor.

8 JUDGE ZABAN: Let him ask his question.

9 BY MR. KENNEDY:

10 Q. Within two years of the provision of the  
11 service from September of '99 through March of  
12 2000, has Huntington ever been provided copies of  
13 any actual bills for services provided at  
14 Huntington Park?

15 MR. BERNET: Objection, your Honor. You  
16 allowed the witness to testify about Subparagraph  
17 H and I think your ruling was that was the only  
18 paragraph you were going to allow him additional  
19 direct on.

20 JUDGE ZABAN: In addition, as I've indicated  
21 before, Mr. Kennedy, I think that issue is  
22 addressed in the direct testimony of Commonwealth

1 Edison and would probably be better left to  
2 rebuttal.

3 MR. KENNEDY: Okay, we will withdraw that  
4 question, your Honor.

5 BY MR. KENNEDY:

6 Q. Now, in response to the second-to-the-last  
7 question, you were asked what Huntington Park  
8 would like to resolve as a result of this  
9 proceeding. You gave a three pronged answer, is  
10 that answer still correct today?

11 A. Yes, it is.

12 Q. That is what Huntington Park would like to  
13 attain as a result of this proceeding?

14 A. Correct.

15 MR. KENNEDY: We have nothing else at this  
16 time, your Honor. Based upon his direct we have  
17 submitted rebuttal.

18 JUDGE ZABAN: Okay. At this time are you  
19 moving to admit anything into evidence?

20 MR. KENNEDY: Yes, we would move to admit the  
21 prepared testimony of Dennis Hughes, which I  
22 believe has been marked for identification as

1 Complainant's Exhibit No. 1, and we would also  
2 move for admission of Complainant's Group Exhibit  
3 No. 2 which has been marked for identification.

4 JUDGE ZABAN: I'll strike the identification  
5 marks. Do you have any objection, Mr. Bernet, to  
6 Complainant's Exhibit No. 1.

7 MR. BERNET: No objection, your Honor.

8 JUDGE ZABAN: I will admit it and I will  
9 consider all the relevant portions of the  
10 document.

11 (Whereupon Complainant's  
12 Exhibit No. 2 was  
13 marked for identification and  
14 admitted into evidence  
15 as of this date.)

16 JUDGE ZABAN: As to Complainant's Exhibit  
17 No. 2?

18 MR. BERNET: Objection, based on Rule 200.660,  
19 same objection I asserted before that this is  
20 improper additional direct testimony and Com Ed  
21 objects.

22 JUDGE ZABAN: Over the objection of Mr. Bernet

1     and your objection is noted for the record, I  
2     will admit it into the evidence.

3                     (Whereupon Complainant's  
4                     Exhibit No. 2 was  
5                     marked for identification and  
6                     admitted into evidence  
7                     as of this date.)

8             JUDGE ZABAN: Do you have any questions of,  
9     Mr. Hughes?

10            MR. BERNET: Yes.

11            JUDGE ZABAN: Go ahead.

12            MR. BERNET: Your Honor, before we get to cross  
13     I would move under Article 2, Second 1110 of the  
14     Illinois Code of Civil Procedure for a directed  
15     verdict. Under the rules and under the cases the  
16     question is whether the plaintiff has presented a  
17     prima facia case.

18            JUDGE ZABAN: If I may, Mr. Bernet, in order to  
19     do that then you are going to have to waive cross  
20     examination. Why don't you do your cross and  
21     then I'll entertain the motion.

22            MR. BERNET: Okay, thank you, your Honor.

1 CROSS EXAMINATION

2 BY

3 MR. BERNET:

4 Q. Good morning, Mr. Hughes. My name is  
5 Richard Bernet, I'm counsel for Commonwealth  
6 Edison in this matter. Can you briefly describe,  
7 sir, your education?

8 A. High school graduate.

9 Q. That's the highest level of education you  
10 have?

11 A. As far as degree, yes.

12 Q. Thank you. Have you ever testified as an  
13 expert witness?

14 A. Not to my knowledge.

15 Q. Have you ever worked for an electric  
16 utility company?

17 A. No, I have not.

18 Q. The complaint in this case, or your direct  
19 testimony refers to demand charges; is that  
20 right, sir?

21 A. Yes, it does.

22 Q. And that's one of the things you dispute

1       in this case?

2       A.   Yes, it is.

3       Q.   Do you know how demand charges are

4       calculated?

5       A.   I am not an electrician, so as far as

6       giving an absolute answer, no, I do not.

7       Q.   Well, what about a nonabsolute answer?

8       A.   I have an understanding of how you bill

9       them, yes.

10      Q.   That wasn't my question. I said, do you

11      know how they are calculated, the demand charges

12      are calculated?

13      A.   No, I do not.

14      Q.   Do you know how a meter records electrical

15      demand usage?

16      A.   No, I do not.

17      Q.   Have you had any training or taken any

18      courses on how a meter operates?

19      A.   No, I have not.

20      Q.   Have you had any training, taken any

21      courses on how to read a meter?

22      A.   No, I have not.

1           Q.   Have you had any training or taken any  
2   courses on how to calculate demand charges?

3           JUDGE ZABAN: I believe you asked that  
4   question.

5           MR. BERNET: I think it was a question about  
6   training.

7           THE WITNESS: I have no formal training.

8           JUDGE ZABAN: That's true, he could have not  
9   been paying attention. That's fine.

10          MR. BERNET: I wouldn't presume that, though.  
11   May I approach the witness, your Honor?

12          JUDGE ZABAN: Sure.

13   BY MR. BERNET:

14          Q.   Do you recognize that document, sir, which  
15   I would like to have marked as Com Ed Cross  
16   Exhibit 1, please.

17          A.   Yes, I have seen this before.

18          Q.   Can you tell us what it is?

19          A.   It's a bill that was received for the  
20   public service at Huntington Park Apartments.

21          Q.   Public service, you mean the common areas?

22          JUDGE ZABAN: Before we begin, do you have --



1 well, you don't need more copies so this is Cross  
2 1. Go ahead.

3 MR. BERNET: Thank you, your Honor.

4 BY MR. BERNET:

5 Q. Do you recognize that document, sir, as --  
6 actually it's a group of bills that were sent to  
7 Mid American Management -- well, sent to Mid  
8 American Management, Huntington Park Apartments,  
9 do you see that?

10 A. Yes, I do.

11 Q. And you received these bills, correct?

12 A. In a roundabout way, yes.

13 Q. Well, is your -- are Com Ed bills  
14 currently sent to Huntington Park Apartments at  
15 PO Box 275, Prospect Heights, Illinois?

16 A. Yes, they are.

17 Q. And is that your post office box?

18 A. Post office box belongs to Huntington Park  
19 Apartments.

20 Q. And that's been the case since you were  
21 first employed by Huntington Park Apartments?

22 A. That has been the case since July of 1998.

1           Q.   And that's when you first became employed  
2   by Huntington Park Apartments; isn't that right,  
3   sir?

4           A.   No, it was 1997.

5           Q.   But in your testimony you say that it was  
6   July 1998, Page 1 of your testimony.

7           A.   The first -- well --

8           Q.   So should we change that to July of 1997?

9           A.   The property was purchased in July 1997,  
10   and I did do a walk through at the property. I,  
11   at this time was, I guess, not employed by  
12   Huntington Park Apartments, but in July of '98, I  
13   guess that would be the start.

14          Q.   July of 1997 you said you did a walk  
15   through at the property. What was the purpose of  
16   the walk through?

17          A.   Prior to the purchase.

18          Q.   And for whose benefit?

19          A.   For my benefit and the owner's benefit.

20          Q.   And in what capacity were you doing the  
21   walk through?

22          A.   To review the property, see the condition

1 of the property, and consult with the owner on  
2 it.

3 Q. So you are a real estate consultant for  
4 the owner?

5 A. No. I went to look at the property with  
6 the owner as a friend, for some advice.

7 Q. But you first became employed by  
8 Huntington Park Apartments in July of '98, right?

9 A. Correct.

10 Q. So directing your attention, sir, to Page  
11 3 of -- by the way, the handwriting that appears  
12 on the first page of this exhibit, that's your  
13 handwriting?

14 A. Yes, it is.

15 Q. And is that the case with respect to all  
16 the handwriting that appears on this group  
17 exhibit? Take a moment to review it.

18 A. Yes, it is.

19 Q. Directing your attention to Page 3 of that  
20 document, can you tell us what that is?

21 A. It's Page 1 of a bill this was sent by Com  
22 Ed to Mid American Management, Huntington Park

1       Apartments at our PO Box.

2           Q.   And that's the same as page -- and that's  
3       for the billing period -- or that bill was issued  
4       on November 10, 1998?

5           A.   Yes, it was.

6           Q.   And that was for service address 1281  
7       North Nantucket in Aurora, that's the Huntington  
8       Park Apartments service address?

9           A.   Correct.

10          Q.   And the same would apply to Page 4 of that  
11       exhibit, went to the post office box, it was  
12       issued December 11th, 1998?

13          A.   Yes, but again it's addressed to the Mid  
14       American Management.

15          Q.   I don't have a question pending.   And Page  
16       5, that is also a Com Ed bill that went to  
17       Huntington Park Apartments at the PO Box?

18          A.   Yes, it is.

19          Q.   And the same with Page 7?

20          A.   You are referring to 1/14/99.

21          Q.   Yes, the bill issued 1/14/99, it's on Page  
22       7 of that exhibit, yes?

1           A.    Yes.

2           Q.    And Huntington Park received these bills,  
3    did it not?

4           A.    In a roundabout way, yes.

5           Q.    But you received the bills?

6           A.    Eventually, yes.

7           Q.    Well, they were sent to that post office  
8    box.  Is it your testimony, sir, that you did not  
9    receive -- that those bills were not received at  
10   that post office box roughly a few days after the  
11   issue date?

12          A.    Page 1 was received approximately four  
13   weeks after its issue date through Mid America.

14          Q.    I understand, I'm not asking you about  
15   Page 1, sir, I'm going asking you about Page 3  
16   through the rest of the exhibit.

17          A.    Yes, that was received at the post office  
18   box.

19          Q.    Roughly around the same time as the issue  
20   date?

21          A.    Within five days, yes.

22          Q.    Okay, thank you.  Now, you testified that

1     you were employed by Huntington Park Apartments  
2     starting in July of '98, right, sir?

3         A.   Yes, sir.

4         Q.   And if you added up the total amount --  
5     well, let's talk about the periods here.  The  
6     first bill on Page 3, the total amount due on  
7     that bill is \$10,701.86; isn't that right?

8         A.   Page 1 of --

9         Q.   On Page 3 of Com Ed Cross Exhibit 1, the  
10    amount that appears, the total amount due is  
11    10,701.86?

12        A.   Appearing on there, that's not a bill.

13        Q.   That's not a bill?

14        A.   No, that's just something they mailed to  
15    us.

16        Q.   But the amount due that's set forth on  
17    that bill -- or set forth on that document  
18    received by Huntington Park Apartments is  
19    10,701.86, isn't it?

20        A.   And 86 cents, yes.

21        Q.   And 86 cents, thank you.  And turning to  
22    Page 5 and 6 of that document, you recognize that

1 as a bill too; is that right, sir?

2 A. Page 2 of the bill, yes.

3 Q. Well, turn to Page 5, do you see that as

4 Page 2? Maybe the pages aren't correct there.

5 Page 5 in my copy is a bill with issue date

6 January 6, 1999.

7 A. Yes.

8 Q. And that appears -- Page 6 and 7 appear to

9 be a two-page bill from Com Ed; is that right?

10 JUDGE ZABAN: That's not what I have, I'm

11 missing Page 5 and 6. Go ahead.

12 BY MR. BERNET:

13 Q. So, Mr. Hughes, Page 5 and 6 appear to be

14 a two-page bill and the total amount due on that

15 bill appears to be 13,294.94; is that right?

16 A. Correct.

17 Q. Okay.

18 JUDGE ZABAN: Off the record for a second.

19 (Whereupon, there was an

20 off-the-record discussion.)

21 BY MR. BERNET:

22 Q. So those two bills that we just described

1 and actually the third bill, which starts on Page  
2 7 and Page 8, has a current amount due of 3,319;  
3 is that right?

4 A. Total amount is \$16,613.

5 Q. I understand. But the total current  
6 charges for that billing period is \$3,319,  
7 correct?

8 A. Correct.

9 Q. Those were all charges billed to Mid  
10 America Management; is that right?

11 A. Yes, they were.

12 Q. And those bills appear -- the total amount  
13 of those bills roughly what we added up is  
14 roughly \$27,000, ballpark?

15 A. About 19,000.

16 Q. Well, let's go back. The first number  
17 that we talked about was 10,701.86, it's on Page  
18 3.

19 A. You specifically stated the bills. The  
20 bills add up.

21 Q. I'm referring to the document on Page 3,  
22 so with that 10,000, do you agree with me that



1 the total amount that we're talking about here is  
2 roughly \$27,000?

3 A. No, I do not.

4 Q. Then the second bill -- so you understand  
5 that the first bill we talked about, the first  
6 document, if you don't want to call it a bill, is  
7 10,701.86, correct?

8 A. Issue date 11/10/1998?

9 Q. Correct.

10 A. That says \$10,701.

11 Q. Okay. So then the second bill we talked  
12 about about on Pages 5 and 6, and at the bottom  
13 of that page -- at the bottom of Page 6, it says  
14 total amount due is 13,294.94, right?

15 A. Okay, that's not the bill amount.

16 Q. No. My question, sir, is that on the  
17 second page of that document it says the total  
18 amount due and that amount is 13,294.94; is that  
19 right?

20 A. Yes, it is.

21 Q. So we have 10,701, plus 13,294, so far,  
22 right?

1           A.   No, that's incorrect.

2           Q.   Well, those are the numbers that you just

3 testified to.

4           A.   Well, no, you said \$10,701.

5           Q.   \$10,701.86?

6           A.   Correct. Now, that's a prior bill --

7           Q.   I didn't ask you what it was, we're trying

8 to get the amounts right now. And then the

9 second bill amount that you just testified to was

10 13,294.94; is that correct?

11          A.   As the total bill, including prior bills,

12 yes.

13          Q.   So there is a reference on this page --

14 there is a reference on this bill on Pages 5 and

15 6 to prior bills, is that your understanding?

16          A.   Well, I mean a total amount due to me

17 means that that's the cumulative amount that's

18 due. And I would assume that that 13,294.94

19 would include the prior bills.

20          Q.   Well, I'm not asking you to assume. So if

21 we look at the line that says total current

22 charges, do you see that?

1           A.    Yes, I do.

2           Q.    And so looking at this bill is it your  
3   understanding, sir, that the \$8,294.94 that  
4   appears there is the current charges for service  
5   from November 9th, 1998 to December 10th, 1998?

6           A.    No, it is not.

7           Q.    Okay.

8           A.    My understanding --

9           Q.    Okay, is it your understanding that that  
10   is the total amount due for the period from  
11   October 9th, 1998 through December 10th, 1998?

12          A.    Yes, it is.

13          Q.    And then do you see the other amount that  
14   is listed, it says other charges.  And it says  
15   installment payment agreement, it says \$5,000.  
16   Do you see that?

17          A.    Yes, I do.

18          Q.    So if you add 8,294.94 and 5,000 you come  
19   up with 13,294.94; is that right?

20          A.    Correct.

21          Q.    So there is no prior charges listed on  
22   this bill, is there?

1           A.   That \$5,000 is prior charges, yes.

2           Q.   That's your testimony?

3           A.   Yes, it is.

4           Q.   And what's the basis for that conclusion?

5           A.   That was part of the payment plan for the

6           \$10,594.70 that was previously billed.

7           Q.   And the reason you know that is what?

8           A.   Because we paid -- we made the installment

9           plan.

10          Q.   You made payments on the installment plan?

11          A.   Yes, we did.

12          Q.   How many payments?

13          A.   Two payments.

14          Q.   In what amounts?

15          A.   Well, I think one was 5,000 and the other

16          one was probably \$5,543.70.

17          Q.   And when did you make those payments?

18          A.   \$5,543.70 was paid in January of '99 and

19          \$5,000 was paid check No. 1315 -- well, let me

20          back up. We paid \$5,543.70 check was dated 1/11

21          of '99 for check No. 1339. And the first payment

22          of \$5,000 was -- had an issue date of 12/26/98,

1 check NO. 1315 for \$5,000.

2 MR. BERNET: Can I approach the witness and see  
3 what it is he's referring to there?

4 JUDGE ZABAN: Sure.

5 MR. KENNEDY: I don't object.

6 BY MR. BERNET:

7 Q. Were you just looking at this page or were  
8 you looking at both?

9 A. No, that's the page I was looking at.

10 Q. So the document you just referred to  
11 appears to be a faxed copy of the first page of  
12 the bill that -- is the first page of the bill  
13 that we're referring to as Com Ed Cross Exhibit  
14 1. Do you have extra copies of this document?

15 A. No, I do not.

16 Q. And so Huntington Park Apartments received  
17 this document, right?

18 A. You need to clarify that, I don't  
19 understand.

20 Q. Well, did Huntington Park Apartments  
21 receive this document?

22 A. Well, I think I testified to that earlier

1       that we did receive that document.

2           Q.   This document appears to have different or  
3       additional -- different writing on it than the  
4       document that we were referring to as Cross  
5       Exhibit 1, so I would like to mark this for  
6       identification purposes.  It appears to be a  
7       two-page document.  I would like to mark this as  
8       Com Ed Cross Exhibit 2.

9           JUDGE ZABAN: May I see the document?

10          MR. BERNET: Sure.

11          MR. KENNEDY: We don't object, your Honor, but  
12       since it's the only copy we have.

13          JUDGE ZABAN: I'll allow you to substitute.

14       BY MR. BERNET:

15          Q.   Do you know if this document was produced,  
16       Mr. Hughes, to Com Ed in this case?

17          A.   That's not the original, and I mean, the  
18       information that we paid the bill, is that what  
19       you're referring to?

20          Q.   No, my question is do you know whether  
21       this document was produced?

22          A.   That document, other than the check

1 payment dates is the same as the rest of them.

2 MR. BERNET: Move to strike.

3 JUDGE ZABAN: Mr. Hughes, simply do you know if  
4 that particular document was given to Com Ed in  
5 discovery? Actually, Mr. Kennedy might be in a  
6 better position to answer that.

7 THE WITNESS: Not that I'm aware of.

8 BY MR. BERNET:

9 Q. Thank you. Okay. And the basis for your  
10 conclusion, sir, that Huntington Park paid \$5,000  
11 is a handwritten note that appears on the top of  
12 this document that says \$5,000 now; is that  
13 right?

14 A. That is correct.

15 Q. And the basis for your conclusion that  
16 Huntington Park paid \$5,543.70 by 1/21/99 is also  
17 because there is a handwritten note on the top of  
18 this document; is that right, sir?

19 A. No. On your bill dated 2/16 of 1999 --

20 Q. Well, let's back up for a second. This  
21 the only document you referred to a minute ago  
22 when you testified about what payments were made;

1 is that right? You are referring to another  
2 document now; is that right?

3 JUDGE ZABAN: Well, you asked him a question,  
4 Mr. Bernet. Is that the basis for your -- for  
5 making that statement?

6 MR. BERNET: Right.

7 JUDGE ZABAN: And if there is another basis, he  
8 should be allowed to testify to it.

9 THE WITNESS: The bill issue date of 2/16/1999  
10 reflects that the only amount due and owing is  
11 the current charges.

12 BY MR. BERNET:

13 Q. And just so we're clear -- what you just  
14 referred to is not a document that is contained  
15 in the exhibit that I'm asking you questions  
16 about, right, that's another document?

17 JUDGE ZABAN: I believe your bills end in  
18 January of '99; is that correct?

19 MR. BERNET: The bills I'm referring to right  
20 now, that's correct, your Honor, January 13.

21 JUDGE ZABAN: So a February bill would be  
22 outside of that.



1           MR. BERNET: Right.

2           BY MR. BERNET:

3           Q.    So it's your testimony that because, and

4           you are referring now to a bill that's dated

5           February 16th, 1999; is that right?

6           A.    Issue date of 2/16/99, correct.

7           Q.    And that's a bill issued to Huntington

8           Park Apartments; isn't that right?

9           A.    1281 Nantucket.

10          Q.    Well, doesn't it say at the top of that

11          the addressee is Huntington Park Apartments?

12          A.    Well, the addressee it says Huntington

13          Park Apartments, but 1281 North Nantucket is not

14          the address.

15          Q.    You answered my question, thank you.

16          JUDGE ZABAN: If you are going to introduce it

17          I'll allow you to bring it in after lunch time,

18          that's fine.

19          MR. BERNET: So just so we're clear, and we'll

20          mark, when we get back from lunch, your Honor,

21          we'll mark the bill with issue date 2/16/99, it's

22          a two-page bill issued to Huntington Park

1     Apartments, we'll mark that as Com Ed Exhibit 3,  
2     Cross Exhibit 3.

3             JUDGE ZABAN: Right.

4     BY MR. BERNET:

5             Q.   Is that the same copy that you were  
6     referring to?  Do you have a copy of this bill,  
7     too, sir?

8             A.   It's a copy of the same bill that we  
9     provided to you, yes.

10            JUDGE ZABAN: What he's asking is to make sure  
11    you are talking about the same bill, can you show  
12    him the copy of the bill that you are looking at  
13    so that Mr. Bernet's copy and yours coincide.

14            MR. BERNET: They are slightly different.  I  
15    see some number references on the first page, but  
16    no big deal.

17    BY MR. BERNET:

18            Q.   So just to make sure the record is clear,  
19    sir, it's your testimony that -- you testified  
20    previously that Huntington Park paid \$10,543.70  
21    in two installments, right?

22            A.   Correct.

1           Q.   And part of the reason you come to that  
2           conclusion is that the bill issued on 2/16/1999  
3           is for only the total current charges; is that  
4           right?

5           A.   Correct.

6           Q.   So can you tell me, sir, do you recall  
7           whether Mid American Management made the  
8           \$10,543.70 payment or Huntington Park made that  
9           payment?

10          A.   Huntington Park made at that payment.

11          Q.   Was Huntington Park in any way affiliated  
12          with Mid America Management?

13          A.   They used to own the property a long time  
14          ago.

15          Q.   Mid America Management used to own the  
16          property a long time ago?

17          A.   Yes.

18          Q.   When was that?

19          A.   Prior to '97.

20          Q.   So did Mid America Management own the  
21          property as of June 1998?

22          A.   No, they did not.

1           Q.   The property was transferred to Huntington  
2   Park Apartments; is that right?

3           A.   Correct and Com Ed was notified.

4           Q.   Okay.   So Mid America Management sold the  
5   building to -- sold the entire complex of all 240  
6   units?

7           A.   In 1997.

8           Q.   Do you recall the date, ballpark?

9           A.   June.

10          Q.   So as of June 1997, then, Huntington Park  
11   Apartments was responsible for the energy usage  
12   at 1281 North Nantucket in Aurora?

13          A.   I do not know what the arrangements were  
14   between the owner and Mid America.

15          Q.   So you don't know who was responsible for  
16   electricity at the property at that point, during  
17   that period?

18          A.   I'm unaware of their arrangement.

19          Q.   So that's a yes?

20          A.   No, I said I'm unaware.

21          JUDGE ZABAN: The answer is he doesn't know.

22          BY MR. BERNET:

1           Q.   So that's the case for the period of these  
2   bills that we're talking about through January  
3   14th, 1999?

4           A.   No, that's not true.

5           Q.   Well, on January 14th, 1999, in the bill  
6   that we just referred to as Com Ed Exhibit 3, the  
7   name on that bill is Huntington Park Apartments,  
8   1281 North Nantucket. Do you see that, sir, in  
9   Aurora?

10          A.   Mid America Management, Huntington Park  
11   Apartments, PO Box 275.

12          Q.   Maybe I made a mistake there. The bill  
13   that I'm talking about is the bill dated February  
14   16, 1999, issue date February 16, 1999, the one  
15   we marked as, I think it's Com Ed Exhibit 3. Do  
16   you see that bill?

17          A.   Correct.

18          Q.   So my question is, is it your  
19   understanding that as of that date Huntington  
20   Park Apartments was responsible for the energy  
21   usage at 1281 North Nantucket in Aurora?

22          A.   On February 16, 1999 Huntington Park

1     Apartments was responsible for that bill.

2           Q.    Okay, thank you.   And Huntington Park  
3     Apartments was responsible since that date until  
4     now, right?

5           A.    As well as prior to that date, yes.

6           JUDGE ZABAN: Let me ask you a simple question,  
7     Mr. Hughes. Since you became employed by  
8     Huntington Park Apartments in July of 1998 who  
9     was responsible for payment of the electricity?

10          THE WITNESS: Huntington Park Apartments.

11          MR. BERNET: Thank you, your Honor.

12          BY MR. BERNET:

13          Q.    Okay.   Going back to Com Ed Cross Exhibit  
14     No. 1, we just had a long discussion, sir, about  
15     payments that were made in December of 1998 and  
16     January 1999.   But let me refer back to Com Ed  
17     Cross Exhibit 1.

18                So you were talking about the total  
19     amounts due, and I just want to be clear,  
20     Huntington Park Apartments was responsible, we  
21     talked about the 10,701.86 that was on Page 3 of  
22     that exhibit, right?

1           A.   You've given me a copy of the page that  
2   says 10.701.86, yes.

3           Q.   And that's in the line that says total  
4   amount due, right?

5           A.   That's what the bill says, yes.

6           Q.   And then we talked about Page 6 of that  
7   exhibit, which has total amount due 13,294.94,  
8   right?

9           A.   Including other charges, yes.

10          Q.   Including the installment payment charges?

11          A.   Correct.

12          Q.   And then the last bill in that group  
13   exhibit on Page 8 has total current charges due  
14   of \$3,319, right?

15          A.   Yes.

16          Q.   Did you read Mr. Dorgan's testimony in  
17   this case?

18          A.   Briefly, yes, I did.

19          Q.   And let me direct your attention to Page  
20   11 of his testimony, please.

21          JUDGE ZABAN: In order to make reference to the  
22   document, it's previously been marked by you as

1 Com Ed Exhibit No. 2 and we are going to mark it  
2 Com Ed Exhibit No. 2 for identification.

3 MR. BERNET: Thank you, your Honor.

4 THE WITNESS: What page would you like me to  
5 turn to?

6 BY MR. BERNET:

7 Q. Page 11, sir. Are you with me?

8 A. Yes, sir.

9 Q. And you see the question at Line 214, Why  
10 did Com Ed waive those \$692 in late fees on April  
11 24th, 2001. Do see that question and answer?

12 A. Yes, sir.

13 Q. So Mr. Dorgan is testifying that  
14 Huntington Park Apartments entered into an  
15 installment payment agreement with Commonwealth  
16 Edison. Do you recall that?

17 While you're looking, you have a  
18 recollection that Huntington Park entered into at  
19 least one installment payment agreement because  
20 that was the \$10,500 in payment we talked about  
21 before; isn't that right?

22 A. That's correct.



1           Q.   And that agreement must have predated  
2   April 2001; isn't that right?

3           A.   Yes, it did.

4           Q.   So do you recall entering into any other  
5   installment payment agreement, or do you recall  
6   that Huntington Park Apartments entered into any  
7   other installment payment agreement with Com Ed?

8           A.   I vaguely remember a payment plan being  
9   entered into with Commonwealth Edison while these  
10   issues were pending, yes.

11          Q.   Okay.  And you entered into that agreement  
12   with Commonwealth Edison on behalf of Huntington  
13   Park Apartments?

14          A.   Yes.

15          Q.   And do you recall that the amount of the  
16   payment agreement was \$40,569.98?

17          A.   Including late charges, that is about what  
18   I recall.

19          Q.   Okay.  And Huntington Park only paid  
20   \$3800 -- 3800 -- \$3,884 pursuant to that  
21   installment payment agreement; is that right?

22          A.   I recall there were payments made on that,

1       yes.

2           Q.   Okay. Do you recall that being the amount?

3           A.   No.

4           Q.   Do you have any reason to dispute that

5       amount?

6           A.   Absolutely.

7           Q.   How much do you think was paid?

8           A.   I think there was more than \$3800 paid.

9           Q.   Okay. As you sit here today what is your

10       recollection?

11          A.   That there was more than \$3800 paid.

12          Q.   \$100 more?

13          A.   It could have been 4,000, it could have

14       been 8,000, I don't recall.

15          Q.   You don't recall?

16          A.   No.

17          Q.   Do you have any documents that indicate

18       how much you paid above \$3,884?

19          A.   No, I do not.

20          Q.   And at some point Huntington Park decided

21       not to pay anything; isn't that right?

22          A.   When the agreement was made with Com Ed,

1       they were pending review of our bills.

2           Q.   Did you enter into the agreement to avoid  
3   being disconnected?

4           A.   Not that I'm aware of.

5           Q.   Why did you enter into the agreement?

6           A.   Well, we were paying bills.

7           Q.   So you entered into an agreement to pay  
8   Com Ed over \$40,000 on bills that you disputed?

9           A.   And it was notated as such, yes.

10          Q.   But it was an agreement to pay that full  
11   amount; isn't that right?

12          A.   We were told we would be credited on that  
13   according to our billing installment agreement,  
14   which I just found.

15          MR. BERNET: Can I approach the witness, your  
16   Honor?

17          JUDGE ZABAN: Sure.

18          MR. BERNET: Do you want to show that to  
19   counsel, first.

20          BY MR. BERNET:

21          Q.   Thank you. I'm looking at a two-page  
22   document that appears to be a fax from Fred

1 Kaiser in system credit at Com Ed to Dennis  
2 Hughes. That's you, right?

3 A. Correct.

4 Q. And is that your fax number at the time  
5 (847)392-6972?

6 A. Yes.

7 Q. And do you recognize the handwriting that  
8 appears on the first page of that document?

9 A. No.

10 Q. None of that handwriting?

11 A. Well, Fred Kaiser signed that.

12 Q. Is this your handwriting?

13 A. No, it is not.

14 Q. And the document is a couple sentences,  
15 purports to be a 24-month installment payment  
16 plan; is that right?

17 A. Yes.

18 Q. And total amount due is 37,691.14, right?

19 A. That is what it says on there.

20 Q. And the date that appears on the fax is  
21 3/27/01. Is that your recollection of roughly  
22 the time that you entered into this agreement?

1           A.   Roughly, yes.

2           Q.   So as you sit here today, sir, can you

3           tell me what your best recollection is as to how

4           much Huntington Park paid Com Ed under this

5           installment payment plan?

6           A.   No, I do not.

7           Q.   Do you know whether or not this two-page

8           document was produced to Com Ed in connection

9           with this case?

10          A.   That's Com Ed's document.

11          Q.   That's not what my question was.  My

12          question was, do you know whether you produced

13          that document?

14          A.   Yes.

15          Q.   Your recollection is you produced it?

16          A.   You just saw it.

17          JUDGE ZABAN: Talking about prior to the

18          hearing.  Mr. Hughes, you knew what he was

19          asking, so just answer the question.

20          THE WITNESS:  I'm unaware.

21          BY MR. BERNET:

22          Q.   You don't know one way or the other?

1           A.   No, I do not.

2           Q.   Was that document maintained in your file  
3 related to this dispute?

4           A.   It was in with the Com Ed paid bills.

5           Q.   So it was within the documents related to  
6 this dispute?

7           A.   It was in with Huntington Park files, in  
8 with the paid bills.

9           Q.   Paid bills that aren't the subject of a  
10 dispute here?

11          A.   Well, many of the bills that have been  
12 paid are subject to dispute that are in that  
13 file.

14          Q.   Do you recall that Com Ed sent Huntington  
15 Park Apartments' first set of data requests in  
16 this case on March 15th, 2002?  Roughly that  
17 date.  I have a copy if you want to see it of the  
18 data request.

19          A.   Okay, I recall getting this, yes.

20          Q.   And you were the person at Huntington Park  
21 Apartments responsible for responding to that  
22 data request, that set of data requests?

1           A.    Yes, I was.

2           Q.    And was there anybody else responsible for  
3    responding to this set of data requests?

4           A.    No.

5           Q.    And directing your attention to Paragraph  
6    13, can you read that, please, out loud?

7           A.    Provide a copy of all documents that refer  
8    to, discuss or relate to, including but not  
9    limited to, correspondence, notes or electronic  
10   mail, any communication between Dennis Hughes  
11   Huntington Park Hughes and Associates Limited,  
12   Com Ed employees or agents regarding this  
13   proceeding or electric services provided to the  
14   complex.

15          Q.    And based on that request, it's your  
16   testimony today that you don't recall one way or  
17   the other whether that document you just  
18   discussed, which I would mark as Com Ed Cross  
19   Exhibit 4, you don't recall one way or the other  
20   whether or not that document was produced; is  
21   that right?

22          A.    No, I do not know.

1       Q. Well, it's clearly responsive to that  
2 request, isn't it?

3       A. I guess, yes.

4       MR. BERNET: So we can mark this at the break,  
5 then?

6       MR. KENNEDY: We have no objection.

7

8 BY MR. BERNET:

9       Q. Mr. Hughes, do you know whose handwriting  
10 in blue appears in the bottom third of this  
11 document?

12      A. It could be somebody out at the property.

13      Q. But you don't recognize it, that's my  
14 question?

15      A. Not, not offhand.

16      Q. Mr. Hughes, there are 11 meters located at  
17 Huntington Park Apartments that are the subject  
18 of this dispute; is that right?

19      A. We also have the individual apartment  
20 meters.

21      Q. Right. Setting aside what you testified  
22 to additionally today, that's not what I'm



1     talking about, but with respect to your original  
2     filed direct testimony, the number of meters that  
3     are at issue in this case is 11; is that right?

4         A.    Correct.

5         Q.    And just for clarification, it's my  
6     understanding that at certain times Com Ed  
7     exchanged meters, so I think the actual number  
8     that were in place at various times throughout  
9     this period is actually around 14.  Do you have  
10    any reason to dispute that?

11        A.    Yes, I do.

12        Q.    How many meters do you believe have been  
13    located at the premises that are the subject of  
14    your dispute as set forth in your original filed  
15    direct testimony?

16        A.    I would have to sit down and add them all  
17    up.

18        Q.    Well, let me ask you this.  It's somewhere  
19    between 11 and 14, would you agree with that?

20        A.    I think it's higher than 14.

21        Q.    How many do you think it is?

22        A.    16 or 18.

1           Q. All right. Directing your attention to  
2 Exhibit A of your direct testimony. Do you have  
3 that? Here's my question -- oh, I'm sorry. We  
4 could speed this up a little, we have an extra  
5 copy of the testimony.

6           A. That would be great, thank you.

7           Q. Is it fair to say, Mr. Hughes, that the  
8 meters that are the subject of this dispute are  
9 set forth on Exhibit A to your direct testimony?

10          A. Many of the meter numbers are, yes.

11          Q. Well, are there other meters that are the  
12 subject of this dispute that are not contained on  
13 Exhibit A? Let me ask it this way: The only  
14 meters that you refer to in your direct testimony  
15 are set forth in Exhibit A; isn't that right?

16          A. To the best of my knowledge, yes.

17          Q. Now, with respect to where the meters are  
18 located at the Huntington Park Apartments, they  
19 are located in the apartment buildings; is that  
20 right?

21          A. They are in the common area.

22          Q. Of the apartment buildings; is that right?

1           A.   In the buildings, yes.

2           Q.   And those buildings contain a security

3   locking system; isn't that right?

4           A.   The doors have locks on them now, yes.

5           Q.   And the way you access those doors is by

6   punching in a number code; is that right?

7           A.   Today, yes.

8           Q.   Has that not been the case in the past?

9           A.   That is correct.

10          Q.   And when did that change?

11          A.   September, October, November of 2002.

12          Q.   So it's your testimony that prior to

13   September -- strike that.

14                    Could you read back that answer, please?

15                    (Whereupon, the record was

16                    read as requested.)

17   BY MR. BERNET:

18          Q.   So it's your testimony that prior to

19   September of 2002 there was no number coded locks

20   on any of the doors out there?

21          A.   Correct.

22          Q.   And so anybody had free access to the

1 meters that existed out there; is that right?

2 A. No.

3 Q. Okay. Can you explain that?

4 A. Well, I mean there were some buildings

5 that were secured and there were other buildings

6 that were not secured.

7 Q. How were the buildings that were secured

8 secured?

9 A. With a lock and key.

10 Q. And did you have a key?

11 A. Yes.

12 Q. At all times you had access to all these

13 buildings?

14 A. Yes, absolutely.

15 Q. Did you ever observe anyone remove a Com

16 Ed security seal from any meter at Huntington

17 Park Apartments?

18 A. No, I did not.

19 Q. Anyone ever tell you that he or she

20 removed a Com Ed security seal from a meter at

21 Huntington Park Apartments?

22 A. No, they have not.

1           Q.   Do you recall back in February of 2001,  
2           that Huntington Park Apartments requested a --  
3           that Com Ed conduct a field verification of all  
4           11 meters?

5           A.   Correct.

6           Q.   And it was you that requested that?

7           A.   Yes.

8           Q.   And a field technician from Com Ed showed  
9           up?

10          A.   I'm not aware of it.

11          Q.   Were you there?

12          A.   No.

13          Q.   So you didn't accompany any Com Ed  
14          representative in connection with that field  
15          verification effort?

16          A.   No.

17          Q.   Are you familiar with what the meters look  
18          like at the Huntington Park Apartments?

19          A.   Yes.

20          MR. BERNET: May I approach?

21          JUDGE ZABAN: Go ahead.

22          BY MR. BERNET:

1           Q.   Handing you what we should mark as Com Ed  
2   Cross Exhibit 5, do you recognize that as, and  
3   it's a photograph with a date of May 15th, 2003,  
4   do you recognize that as a -- as one of the  
5   meters located at Huntington Park Apartments?

6           A.   No, I do not.

7           JUDGE ZABAN: Mr. Hughes, is it similar to the  
8   type of meter found at Huntington Park  
9   Apartments.

10          THE WITNESS:   It looks similar.

11          BY MR. BERNET:

12          Q.   Let me see if I can clarify.  Do you see  
13   the number that appears at the bottom of that  
14   meter?

15          A.   Yes.

16          Q.   Could you read that number?

17          A.   906530, it looks like a 2-5.

18          Q.   Okay.  And I'm going to hand you what is a  
19   bill to Huntington Park Apartments dated January  
20   10th, 2002.  Do you see that?  Do you see the  
21   meter number?

22          MR. KENNEDY: Counsel, has this been

1 identified?

2 MR. BERNET: It hasn't, I'm just going to have

3 him refresh his recollection.

4 JUDGE ZABAN: What was the number of that

5 meter?

6 MR. BERNET: 9065302.

7 BY MR. BERNET:

8 Q. What did you say that last digit was?

9 A. It looked like a 5.

10 MR. BERNET: 90653025 is what Mr. Hughes

11 testified to.

12 BY MR. BERNET:

13 Q. And you see, Mr. Hughes, that I am

14 referring to a meter number on the bill --

15 JUDGE ZABAN: Can I see the picture for a

16 minute?

17 MR. BERNET: Sure.

18 JUDGE ZABAN: Based on the way the glass is

19 placed, it actually is 026.

20 MR. BERNET: That's what I think it is, too.

21 THE WITNESS: The bill says 026.

22 BY MR. BERNET:

1           Q. Does that refresh your recollection that  
2       it is a photograph of a meter that was at  
3       Huntington Park Apartments as of January 10th,  
4       2002?

5           A. Yeah, I guess so.

6           JUDGE ZABAN: Also, just for the record, the  
7       meter matches one of the numbers disputed by  
8       Mr. Hughes in his Exhibit A. So it identifies it  
9       as a Huntington Park meter.

10          MR. BERNET: Thank you, your Honor.

11

12       BY MR. BERNET:

13          Q. I'm placing now in front of you a meter, a  
14       Com Ed meter, and I would like to compare the  
15       meter that I just placed in front of you, sir,  
16       with the photograph you just testified about.  
17       That's a General Electric demand register, right?

18          A. That's what it says on here, yes.

19          Q. Does that appear to be the same meter that  
20       I previously showed you -- the same type of meter  
21       that I previously showed you in Com Ed Cross  
22       Exhibit 5?



1           A.   It looks to be a comparable type, yes.

2           Q.   Do you see any differences between Com Ed  
3   Cross Exhibit 5 and the type of meter that I just  
4   placed in front of you?

5           JUDGE ZABAN: For the record, we are going to  
6   call that Cross Exhibit 6, and just mark it for  
7   identification.

8           THE WITNESS: Other than the fact that this  
9   one says electronic register and this one says  
10   demand register, they look similar.

11

12          BY MR. BERNET:

13          Q.   At the top you are saying it says  
14   electronic register and at the top of Cross  
15   Exhibit 6 it says demand register, right?

16          A.   Right.

17          Q.   Any other differences?

18          A.   None off of the photo, no.

19          Q.   Do you know what this, I'm referring to an  
20   orange tab that appears on the front of Cross  
21   Exhibit 6 and it says Com Ed and it has a number  
22   04971, do you know what that is?

1           A.    It looks like a seal.

2           Q.    And you've seen these on meters at

3   Huntington Park Apartments; is that right?

4           A.    Yes.

5           Q.    Have you ever observed anyone at

6   Huntington Park Apartments reading a meter such

7   as Com Ed Cross Exhibit 6?

8           A.    Jerry Dorgan and myself, that was about

9   it.

10          Q.    And was that one occasion?

11          A.    One occasion.

12          Q.    Any other times you saw anybody read a

13   demand meter such as Cross Exhibit 6?

14          A.    No.

15          Q.    So when the meter reader came out, you

16   never went with him and observed him read the

17   meters at any time?

18          A.    Com Ed doesn't check in with us, so it

19   just doesn't happen.

20          Q.    So the answer is no?

21          A.    Correct.

22          Q.    Do you know how to read a meter?

1           A.   Only to read the numbers across.

2           Q.   Do you know how to read demand on that

3           type of meter?   And again I'm referring to Cross

4           Exhibit 6.

5           A.   No, but I'm not a meter reader.

6           Q.   And you've never attempted to read the

7           demand on any Com Ed meter out at Huntington Park

8           Apartments?

9           A.   Yes, I have.

10          Q.   You have.   Can you show me what you did?

11          A.   Well, Jerry Dorgan showed me how to do it.

12          Q.   Can you show us how to do it?

13          A.   This has the seal on it, but I guess you

14          break the seal and push the button.

15          Q.   Well, just show us your recollection of

16          how you do it, please?

17          A.   (Demonstrating.)

18          Q.   So the record is clear, Mr. Hughes broke

19          the seal, and can you tell us what you did after

20          that?   It was too quick.

21          A.   All I did was lifted it up.

22          Q.   And what?

1           A.   That's it.

2           Q.   So it's your testimony that when you lift  
3   up the apparatus that's freed after you remove  
4   the seal, by lifting that up, that's how you read  
5   the meter?

6           A.   No.   That's what he did and he said  
7   something, I don't know.

8           Q.   We were talking about you reading the  
9   meter.

10          A.   I think I stated that I've only seen Jerry  
11   Dorgan do it one time.   That is what I stated.

12          Q.   So you're saying that you have never  
13   physically read the demand meter out there  
14   yourself?

15          A.   The numbers flash on the screen, okay.   He  
16   said something about this resets something, I  
17   have no idea.   But the numbers flash on the  
18   screen supposedly.

19          Q.   So you read the numbers as they appeared  
20   on the screen and then you pulled up this lever  
21   to do something?

22          A.   I didn't, no.

1 Q. What did you see Mr. Dorgan do?

2 A. Push this and he said the display is right

3 here.

4 Q. So just so we're clear, he lifted up the

5 lever that was freed when the seal was removed

6 and pushed down on a button that says reset?

7 A. That's my understanding of what he did,

8 yes.

9 Q. Okay, thank you. Do you recall when

10 Mr. Dorgan read the meter in front of you?

11 A. No, I do not.

12 Q. I mean, generally, do you recall if it was

13 this year, last year?

14 A. It was last year or the year before.

15 Q. 2001 or 2002?

16 A. 2000, 2001. It was either 2000 or 2001.

17 Q. Okay, one of those two years?

18 A. Yes.

19 Q. And why did Mr. Dorgan come out to read

20 the meter, what's your recollection?

21 A. I met with Mr. Dorgan to review the

22 problems and issues that we had out there.

1           Q.   And can you be any more specific about the  
2   time that you met with him when the meter was  
3   read?

4           A.   From my recollection, no.

5           JUDGE ZABAN: Mr. Bernet, it's 12:30, let's  
6   break for lunch and you can continue your cross  
7   after lunch.   How about about an hour, 1:30.

8           MR. BERNET: That's fine, your Honor.

9           JUDGE ZABAN: See you all at 1:30.

10                   (Whereupon there was a  
11                   luncheon recess taken.)

12                               CONTINUED EXAMINATION

13                               BY

14                               MR. BERNET:

15           Q.   Mr. Hughes, you understand you are still  
16   under oath?

17           A.   Yes, I do.

18           Q.   Do you know, sir, whether or not Mid  
19   America, we were talking earlier whether or not  
20   Mid America, do you recall that, Mid America  
21   Management?

22           A.   Yes.

1           Q.   Do you know whether or not they filed  
2   bankruptcy at some point?

3           A.   I have no idea.

4           Q.   Do you hold any professional licenses?

5           A.   I have a real estate license.

6           Q.   Real estate broker license?

7           A.   Sales license.

8           Q.   And how long have you had that?

9           A.   1985.

10          Q.   Any other professional licenses?

11          A.   No.

12          Q.   I don't recall what exhibit it was,  
13   Complainant's Cross Exhibit 2, I guess.

14          JUDGE ZABAN: You are talking about  
15   Complainant's Exhibit 2.

16          MR. BERNET: Did I say Complainant's Cross  
17   Exhibit?

18          JUDGE ZABAN: Yeah.

19          MR. BERNET: I'm sorry.

20          JUDGE ZABAN: Off the record.

21                   (Whereupon, there was an  
22                   off-the-record discussion.)

1 BY MR. BERNET:

2 Q. Directing your attention to the first page

3 of Complainant's Exhibit 2, do you have that

4 page?

5 A. Page 2?

6 Q. No, the first page of Complainant's

7 Exhibit 2. I'm sorry.

8 A. Yes.

9 Q. You see at the top there is an account

10 number there, 8087100023?

11 A. Yes.

12 Q. Then directing your attention to Page 8?

13 A. Yes.

14 Q. Strike that. Directing your attention to

15 the column that says meter information, again on

16 the first page of Complainant's Exhibit 2, do you

17 see that, where it says meter information?

18 A. Yes.

19 Q. And then below that do you see where it

20 says R-e-s, G-e-n service and water, heat

21 multiple, do you see that?

22 A. Yes, I do.



1           Q.  Is it your understanding that this account  
2   is a residential account?

3           A.  Yes.

4           Q.  Directing your attention to -- I  
5   apologize, can we go off the record for a second?

6                       (Whereupon there was an  
7                       off-the-record discussion.)

8   BY MR. BERNET:

9           Q.  Directing your attention to Com Ed Cross  
10   Exhibit No. 1, first page, do you see that?

11          A.  Yes.

12          Q.  Do you see the account number there at the  
13   top right-hand corner, 8087754003?

14          A.  Yes.

15          Q.  That as a different account number than  
16   the one we just discussed that was a residential  
17   account, right?  It's on the first page of  
18   Complainant's Exhibit No. 2, it's a different  
19   account, right?

20          A.  According to this, yes.

21          Q.  And Com Ed Cross Exhibit No. 1 is an  
22   account in the name of Mid America Management

1     Company, isn't it -- I'm sorry, Mid America  
2     Management, right?

3         A.   That is what your bill says, yes.

4         Q.   And that's a commercial account, isn't it?

5         A.   It's a general service.

6         Q.   Is it your understanding that is  
7     commercial?

8         A.   No, it is not.

9         Q.   Is it your belief that this is a  
10    residential account?

11        A.   It is a residential development.

12        Q.   I understand that, but my question is do  
13    you understand this bill to be a bill on a  
14    commercial account?

15        A.   No, I do not.

16        Q.   And then let me direct your attention to  
17    Com Ed Cross Exhibit No. 1, first page again, see  
18    those meters, there are a number of meters  
19    identified on that page. Is it your  
20    understanding that those meters relate to the  
21    meters that are at issue in this case?

22        A.   As of that date, yes.

1           Q.   And the account, do you know, sir, whether  
2           or not the account that is at issue in this case  
3           is a commercial account or a residential account?

4           A.   No, I do not.

5           Q.   Referring back to Complainant's Exhibit  
6           No. 2, that's the exhibit that you testified  
7           about in terms of transfer charges, right, that  
8           was the subject of your additional direct  
9           testimony today, wasn't it?

10          A.   Correct.

11          Q.   Subject to check, would you agree with me  
12          that the total amount of billing that you dispute  
13          in this exhibit is approximately \$2,197?

14          A.   It's between 2 and \$3,000.

15          Q.   And looking at the bills in Complainant's  
16          Exhibit 2, every one of those bills represents a  
17          transfer of service into a residential account;  
18          isn't that right?

19          A.   Not that I'm aware of.

20          Q.   Well, you already testified that r-e-s,  
21          g-e-n, s-e-r, res gen service and water, heat  
22          multiple on the front page of Complainant's

1 Exhibit 2 is a residential account. So I'm  
2 asking you if you agree with me that the other  
3 bills that are contained in this exhibit contain  
4 that same reference.

5 A. The transfers do not contain that  
6 reference.

7 Q. No, that's not my questions. My question  
8 is bills into which transfers occurred, the  
9 account into which the transfer occurred all  
10 contain that same reference, that's my question.

11 A. Yes, they do.

12 Q. Do you know, sir, whether or not Part 280  
13 of the Illinois Commerce Commission Rules  
14 prohibits the transfer of residential service  
15 into a commercial account?

16 A. No, I do not.

17 JUDGE ZABAN: What was that section again?

18 MR. BERNET: I'm sorry, 280.50, Subpart C. Can  
19 we go off the record for a second, please?

20 (Whereupon, there was an  
21 off-the-record discussion.)

22 BY MR. BERNET:

1           Q.   I'm handing you what I've marked now as  
2   Com Ed Cross Exhibit 7.  Do you recognize that  
3   document?  I'm sorry, can you describe what that  
4   document is?

5           MR. BERNET: Your Honor, I would take the top  
6   two pages off of this exhibit because it's  
7   already been marked for identification as Com Ed  
8   Cross Exhibit 3.  So that we make Com Ed Cross  
9   Exhibit 7 --

10          JUDGE ZABAN: Starting after the first two  
11   pages, so that would be the issue of 2/6/99 --

12          MR. BERNET: 3/17/99 would be -- beginning of  
13   Cross Exhibit 7.

14   BY MR. BERNET:

15          Q.   Can you tell us what that document appears  
16   to be?

17          A.   It's a bill with an issue date of 2/16/99.

18          Q.   No, I'm sorry, if you take -- I'm sorry, I  
19   misspoke, if you would take the first two pages  
20   off what I handed you as Com Ed Cross Exhibit No.  
21   7, that's already another exhibit.  So now the  
22   first page that you should have is a bill that

1 has an issue date of 3/17/99. Do you have that?

2 A. Yes.

3 Q. And so that -- that group of bills, which  
4 is Com Ed Cross Exhibit 7, is bills that Com Ed  
5 issued to Huntington Park Apartments between  
6 3/17/99 and 6/9/99; is that right?

7 A. That is correct.

8 Q. And 1281 North Nantucket has been the  
9 service address for Huntington Park Apartments  
10 since July of 1998 until the present; is that  
11 right?

12 A. That is the service address, yes.

13 Q. And you received these bills at or about  
14 the time they were issued; is that right?

15 A. I think it was quite some time after they  
16 were received, but yes, or after they were  
17 issued.

18 Q. What do you mean by quite some time?

19 A. Well, it was probably several weeks.

20 Q. Directing your attention to your direct  
21 testimony, at Page 1, you testified that you're  
22 employed by Huntington Park Apartments as a

1 management consultant; is that right?

2 A. Yes.

3 Q. During the time period, July 1998 to

4 January 2002, did you do manage -- did you do any

5 management consultant work for any other

6 entities?

7 A. Yes.

8 Q. And can you describe what other entities

9 you did management consulting work for during

10 that time period?

11 A. Plankery Condos, Steeple View Condos.

12 Q. I'm sorry, Steeple?

13 A. Steeple View. That's it.

14 Q. And have you been employed full time by

15 Huntington Park Apartments since July of 1998?

16 A. No.

17 Q. Part time?

18 A. I work out there one and a half days a

19 week.

20 Q. Are you also employed by a company called

21 Hughes and Associates Limited?

22 A. I draw no paycheck.

1           Q. No, that wasn't my question. My question  
2           was are you employed by a company called Hughes  
3           and Associates Limited?

4           A. Yes, I am.

5           Q. And how long have you been employed by  
6           Hughes and Associated Limited?

7           A. '95.

8           Q. And what do you do for them?

9           A. Handle properties like this.

10          Q. Manage real estate?

11          A. Some.

12          Q. What else do you do besides manage real  
13          estate?

14          A. I have a sales license.

15          Q. So you sell real estate through Hughes and  
16          Associates Limited?

17          A. Yes.

18          Q. And would you say that between July 1998  
19          and January 2002, you were full-time employed by  
20          Hughes and Associates?

21          A. No.

22          Q. Can you give us an idea of what percentage



1 of your time was spent as an employee of Hughes  
2 and Associates?

3 A. About 20 hours a week.

4 Q. And then about one and a half days at  
5 Huntington Park Apartments?

6 A. Correct.

7 Q. Did Huntington Park Apartments ever take  
8 taxes out of a paycheck for you?

9 A. Yes, they have.

10 Q. And they issued you a W-2?

11 A. Yes, they have.

12 Q. In which years?

13 A. 2001, 2002 and I would have to check prior  
14 to that, but yes, they have.

15 Q. And you were a management consultant --  
16 you testified you were a management consultant,  
17 but are you saying you were an employee during  
18 that period?

19 A. Yes.

20 Q. So you were acting not as a third party  
21 consultant, you were acting as an employee?

22 A. Correct.

1           Q.   And so in 1998 did you get a W-2 from  
2   Huntington Park Apartments?

3           A.   I do not recall.

4           Q.   What about in 1999?

5           A.   I do not recall.

6           Q.   What about 2000?

7           A.   Yes.   To the best of my knowledge, yes.

8           Q.   Do you recall -- strike that.

9                    So you don't recall one way or the other  
10   if prior to 2000 you were an employee or a  
11   management consultant for Huntington Park  
12   Apartments?

13          A.   I've been a management consultant for  
14   Huntington Park Apartments all along.   You asked  
15   me specifically about a W-2, and I do not recall  
16   if I specifically received a W-2.

17          Q.   Well, let me ask you this: Did Huntington  
18   Park Apartments issue compensation to you during  
19   the years 1998, 1999?

20          A.   Yes.

21          Q.   And was that compensation paid to you  
22   personally or was it paid to Hughes and

1 Associates Limited?

2 A. I do not recall.

3 Q. I'm going to hand you what I've now marked  
4 as Com Ed Cross Exhibit No. 8. Do you recognize  
5 that document?

6 A. It's a bill issued 6/8 of 2000.

7 Q. And that is a bill that you produced in  
8 this case, right?

9 A. I do not know. Yes, we produced that in  
10 Packet 4.

11 Q. So Huntington Park Apartments received  
12 that bill, right?

13 A. Yes, we did.

14 Q. And the service address that is identified  
15 on that bill is 1281 North Nantucket in Aurora,  
16 Illinois, right?

17 A. Yes, it is.

18 Q. And that's the location of Huntington Park  
19 Apartments, right? That's the service address,  
20 isn't it?

21 A. Yes, but that's not the mailing address.

22 Q. That wasn't my question. And that bill

1 relates to service from 2/10/2000 through  
2 6/8/2000, right?

3 A. According to this, yes.

4 Q. Okay. Directing your attention to your  
5 direct testimony as filed and the attached  
6 Exhibit A, the billing period -- strike that.

7 You started working for Huntington Park  
8 Apartments, I think you testified in July of '98,  
9 right?

10 A. Yes.

11 Q. And the period when you began to dispute  
12 Com Ed bills began three months later, right, in  
13 October of '98?

14 A. We received our first bill. When we  
15 received the bill dated 10/13 of '98, that is  
16 correct.

17 Q. So my question is, from bill date  
18 10/13/98, that's when your dispute with Com Ed  
19 began?

20 A. Correct.

21 Q. And you have disputed at least one bill in  
22 each of 1999, 2,000, 2001 and 2002; isn't that

1 right?

2 A. At least one bill, yes.

3 Q. And your direct testimony and the attached

4 exhibit does not state a single dollar amount

5 that Huntington Park disputes, does it?

6 A. Exhibit A, no.

7 Q. No, I said in your direct testimony and in

8 Exhibit A, looking at both of those.

9 A. No.

10 Q. It doesn't contain a dollar amount, right?

11 A. No.

12 Q. And the testimony doesn't contain a single

13 dollar amount that Huntington Park was billed

14 during that period, right?

15 A. No.

16 Q. And there is no bills attached to that

17 testimony, is there?

18 A. No.

19 Q. And that testimony contains no analysis of

20 any defect of any meter, right?

21 A. We dispute the validity of the demand

22 charges.

1           Q.   That wasn't my question.  It contains no  
2   analysis of any defect in any meter, right?

3           A.   Maybe I'm not understanding the question.

4           Q.   You don't know what the word analysis  
5   means?

6           MR. KENNEDY: He's being argumentative, your  
7   Honor.

8           JUDGE ZABAN: If the witness doesn't understand  
9   the question, perhaps you can rephrase it.

10          MR. BERNET: No problem, your Honor, thank you.

11         BY MR. BERNET:

12          Q.   In your direct testimony and attached  
13   Exhibit A, you do not identify any defect in a  
14   meter; isn't that true?

15          A.   That's correct.

16          Q.   Now, in your testimony you claim that  
17   certain demand charges are too high, right?

18          A.   Correct.

19          Q.   And you do not state that the demand  
20   charges are too high because of meter  
21   malfunction, right?

22          A.   Well, I don't know how you would read into

1 inconsistent --

2 Q. Where do you see inconsistent?

3 A. Exhibit A.

4 Q. Can you identify where?

5 A. February 16th, 1999, demand charges are

6 inconsistent with earlier bills.

7 Q. So is it your testimony that that

8 testimony means that there was a meter

9 malfunction?

10 A. There is a malfunction somewhere, okay.

11 Whether it's the reader, the meter, I do not

12 know.

13 Q. But you don't say that there is a

14 malfunction with the meter, right?

15 A. No, we did not say there was a malfunction

16 with the meter.

17 Q. And during this period you do not dispute

18 every single demand charge that Com Ed assessed

19 against Huntington Park, right?

20 A. A lot of them.

21 Q. That wasn't my question. You do not

22 dispute every single demand charge that Com Ed

1     assessed against Huntington Park during that  
2     period?

3         A.    Correct.

4         Q.    Are you aware that part 280.80 of the ICC  
5     rules allows Com Ed to issue estimated bills?

6         A.    Yes, I am aware of that.

7         Q.    Are you aware that Com Ed's tariffs allow  
8     it to bill on maximum demand?

9         A.    No, I'm not.

10        Q.    Now during the period September 1999 to  
11   March 2000, you were a management consultant for  
12   Huntington Park Apartments, right?

13        A.    Yes.

14        Q.    And you were receiving bills at the  
15   Huntington Park -- on behalf of Huntington Park  
16   Apartments between June '98 and September '98,  
17   right -- September '99, I'm sorry.

18        A.    Yes.   Bills were --

19        Q.    You answered the question.  You claim in  
20   this case that Huntington Park Apartments didn't  
21   receive a bill for electricity between September  
22   of 1999 and March of 2000, right, that six month



1 period?

2 A. The last read date here is 9/9 of '99 and  
3 I think that follows through to February of 2000.

4 Q. So it's your testimony that between  
5 September 9th, 1999 and February 2000, Huntington  
6 Park did not receive a bill for electricity,  
7 right?

8 A. I would like to correct that date to 10/8  
9 read.

10 Q. Correct what date?

11 A. The date on which we received bills.

12 Q. But that wasn't my question. My question  
13 is between September 1999 and March 2000, it's  
14 Huntington Park's position that it did not  
15 receive bills for electric service, right?

16 A. That is what's stated here, yes.

17 Q. I mean, that's your position, right?

18 A. Yes.

19 Q. Huntington Park used electricity during  
20 that six month period, didn't it?

21 A. Yes, it did.

22 Q. So it's Huntington Park's position that

1     that electricity should be free because the bills  
2     went somewhere else?

3           A.   Pursuant to the Commerce Commission rules  
4     on billing, I think so.

5           MR. BERNET: Nothing further, your Honor,  
6     subject to our additional cross in connection  
7     with the supplemental direct and the rebuttal to  
8     the extent --

9           JUDGE ZABAN: Do you need time to prepare on  
10    the transfer services, is that what you're  
11    saying?

12          MR. BERNET: I do have a couple -- I would have  
13    a couple more questions on that.

14          JUDGE ZABAN: Do you want to do those now or do  
15    you want time to prepare?

16          MR. BERNET: Your Honor, I would actually --  
17    can I have a moment, please?

18          JUDGE ZABAN: Sure.

19    BY MR. BERNET:

20          Q.   Directing your attention back, Mr. Hughes,  
21    to Cross Exhibit No. 8, that's a bill to  
22    Huntington Park Apartments, right, that was the

1 bill you already testified about?

2 A. Yes.

3 Q. Okay. And directing your attention to, I  
4 would like you to compare Complainant's Exhibit 2  
5 to Cross Exhibit 8. If you could get both of  
6 them in front of you, please. Do you have them?

7 A. Yes.

8 Q. And Cross Exhibit 8 contains Account  
9 No. 8087754030, doesn't it?

10 A. Yes.

11 Q. And that's different than the account  
12 number identified on Complainant's Cross Exhibit  
13 -- I'm sorry, Complainant's Exhibit No. 2, right?

14 A. Yes.

15 Q. Do you have any idea how much Com Ed  
16 believes Huntington Park Apartments currently  
17 owes it in connection with electric use at the  
18 service address we've been talking about?

19 A. No, I do not.

20 Q. So you don't know whether it's \$3,000 or  
21 100,000?

22 A. Do I know, no, I do not know. Com Ed has

1       given us numbers.

2           Q.   Can you tell me what your best  
3       understanding is?

4           A.   Including late fees, deposits requested,  
5       somewhere around \$80,000.

6           MR. BERNET: Nothing further, your Honor.

7           JUDGE ZABAN: Mr. Kennedy.

8           MR. KENNEDY: Yes, if I might inquire, I think  
9       there were some exhibits that were going to be  
10      duplicated.

11          MR. BERNET: Yes, your Honor. At this time I  
12      would like to move for admission of Com Ed Cross  
13      Exhibits 1 through 8.

14          JUDGE ZABAN: Any objection, Mr. Kennedy?

15          MR. KENNEDY: I don't have any objection, but I  
16      don't have copies of many of them, your Honor.

17          MR. BERNET: I thought I handed them to you.

18          JUDGE ZABAN: You didn't hand them to me or the  
19      court reporter.

20

21

22

1                   (Whereupon Com Ed Cross  
2                   Exhibits Nos. 1 through 8 were  
3                   marked for identification  
4                   as of this date.)

5           JUDGE ZABAN: Mr. Kennedy, you may proceed.

6                   REDIRECT EXAMINATION

7                   BY

8                   MR. KENNEDY:

9           Q.   Mr. Hughes, you testified you did graduate  
10           from high school, that was your last formal  
11           degree?

12          A.   Yes.

13          Q.   You are a licensed real estate broker?

14          A.   Salesperson.

15          Q.   You may not have attained any diplomas or  
16           degrees since high school, but have you taken any  
17           classes related to real estate management or real  
18           estate sales?

19          A.   Yes.

20          Q.   And where did you take those classes?

21          A.   Various location, Harper College.

22          Q.   You've testified that you had met with

1 Mr. Dorgan at one point in time and had been  
2 shown how to activate the demand read, is that  
3 correct, on the meter?

4 A. He pointed out how to read it and he said  
5 if it gets reset that screws up the reading, at  
6 which time I don't know if he reset the meter or  
7 not, or what exactly it was he did, as I  
8 testified to earlier.

9 Q. But your testimony was that you don't  
10 remember specifically when that visit was?

11 A. What date it was, no.

12 Q. Did Mr. Dorgan at that point in time, or  
13 has anyone ever suggested to you, that tampering  
14 by Huntington Park Apartments was suspected?

15 A. No.

16 Q. Let me show you what has been marked and  
17 perhaps admitted as Com Ed Cross Exhibit 2, same  
18 being a two page document that appears, I think  
19 which is brought out to have a different account  
20 number than the Huntington Park main account?

21 A. Yes, it does.

22 Q. Did Huntington Park request the issuance

1 of this account number at any point in time?

2 A. No.

3 Q. The mailing address, the business address  
4 for receiving mail is PO Box 275, Prospect  
5 Heights, Illinois; is that correct?

6 A. That is our mailing address for Huntington  
7 Park.

8 Q. Have you or had you ever requested that  
9 all correspondence and billing and other such  
10 important documents be sent to that address?

11 A. Yes, I have.

12 Q. Did you ever request that anything be sent  
13 to 1281 North Nantucket?

14 A. No, we did not.

15 Q. There is a business address there, but it  
16 is not for receipt of correspondence?

17 A. That is an apartment building.

18 Q. Is there an office there?

19 A. Not at 1281 Nantucket.

20 Q. What is located at 1281?

21 A. It is an apartment building.

22 Q. You maintain -- Huntington Park maintains

1 no office at that address?

2 A. No.

3 Q. Do you -- you indicated that you spend a  
4 day and a half a week out there, do you have an  
5 actual physical office?

6 A. Yes.

7 Q. And what is the address for that?

8 A. 1240 Nantucket, Aurora, Illinois.

9 Q. Did you or anyone at Huntington Park  
10 request that residential service bills be  
11 transferred to Huntington Park's commercial  
12 account?

13 A. No, we did not.

14 Q. Let me show you what has been marked, and  
15 certainly not objection to it, as Com Ed Cross  
16 Exhibit 3. You received that document?

17 A. Yes.

18 Q. And you produced it today?

19 A. Yes.

20 Q. Can you tell the judge where that document  
21 was maintained until you brought it in today?

22 A. It was in a paid bill file from 1998 or



1 1999 that was archived.

2 Q. This was in a data file?

3 A. Yes.

4 Q. It was not part of the complaint case, as

5 far as you are concerned?

6 A. Yes.

7 Q. And to the best of your knowledge, those

8 two payments amounting to over \$10,000 were in

9 fact made in late 1998 and early 1999?

10 A. Yes.

11 MR. BERNET: Objection, this document doesn't

12 refer to any payments of \$10,000.

13 MR. KENNEDY: Well, your Honor, there is

14 reference to Check 1315 dated 12/26/98 and 1/1 --

15 MR. BERNET: I'm sorry, withdrawn. You said

16 Cross Exhibit 3, so you are referring to which

17 exhibit?

18 MR. KENNEDY: I'm referring to this exhibit.

19 MR. BERNET: So that's Cross Exhibit 2.

20 MR. KENNEDY: The one I just referred to as

21 Cross Exhibit 2 is obviously -- one of us is

22 wrong.

1 JUDGE ZABAN: No, Cross Exhibit 2 is a document  
2 that has the issue date of 10/13/98 that has a  
3 notation on the bottom of payment.

4 MR. KENNEDY: Okay, I stand corrected. And I  
5 would ask, your Honor, my reference previously to  
6 Com Ed Exhibit 2, Cross Exhibit 2, should have  
7 been reference to Com Ed Cross Exhibit 3.

8 MR. BERNET: It's the other way around.

9 JUDGE ZABAN: Actually it's the other way  
10 around, so that's fine.

11 MR. KENNEDY: All right, I've succeeded.  
12 You withdrew the objection, Counsel?

13 MR. BERNET: Yes, I did.

14 BY MR. KENNEDY:

15 Q. To the best of your knowledge Checks 1315  
16 and 1339 did clear?

17 A. Yes.

18 Q. Did your examination of billing from Com  
19 Ed to Huntington Park subsequent to that ever  
20 reflect a specific credit for the amount of  
21 \$10,543.70?

22 A. No.

1 Q. What did it reflect instead?

2 A. It reflected the balance as being  
3 approximately \$10,000 less.

4 Q. So it didn't show payment received, but it  
5 showed the balance due the next time was the  
6 current amount; is that correct?

7 A. Correct.

8 Q. Do you recall approximately when  
9 Huntington Park notified Com Ed of the change in  
10 ownership and the change in mailing address for  
11 the property out in Aurora?

12 A. I was advised by Mid America that they  
13 sent a letter around the first of July. We also  
14 contacted them by telephone.

15 MR. BERNET: I'm going to object.

16 JUDGE ZABAN: Of what year?

17 MR. BERNET: Well, I'm going to object to  
18 testimony about somebody else's letter, I think  
19 that's hearsay.

20 JUDGE ZABAN: It is hearsay, and however this  
21 is an administrative hearing and I consider  
22 hearsay. But whether or not they may or may not

1     have sent a letter may not be germane to this  
2     anyway.

3           MR. BERNET: Thank you, your Honor.

4     BY MR. KENNEDY:

5           Q.   Let me show you what has been marked and  
6     perhaps admitted as Com Ed Cross Complaint  
7     Exhibit 1 -- not cross complaint.   Com Ed Cross  
8     Exhibit No. 1.   The same being a statement under  
9     the issue date of -- a bill on the issue date of  
10    10/13/1998.   As of 10 --

11           MR. BERNET: Can you hold on one second while I  
12    pull that out, please, I apologize.

13    BY MR. KENNEDY:

14           Q.   As of the date in question, Mr. Hughes,  
15    how long had Huntington Park been officially the  
16    owner and the billing person of the premises in  
17    Aurora?

18           A.   Com Ed was notified in July of 1998 by  
19    myself and by Mid America Management.

20           Q.   As the document would appear to reflect,  
21    this was received by Mid America on or about  
22    October 16th?

1           A.   That is what I've been told.

2           Q.   And then it was forwarded on to you at

3   some point?

4           A.   Correct.

5           Q.   Since the time you've been at Huntington

6   Park, has a Com Ed representative ever contacted

7   you to arrange to make a reading on any of the

8   meters?

9           A.   No.

10          Q.   Were Com Ed personnel out at the premises

11   earlier this month, to the best of your

12   knowledge?

13          A.   Yes.

14          Q.   And do you know approximately when they

15   were out there?

16          A.   Approximately a week ago.

17          Q.   Do you know why they were out there?

18          A.   No, I don't.

19          Q.   Did your secretary or assistant attempt to

20   find out what was going on?

21          A.   Yes, she saw them out there and inquired

22   as to who they were.

1 Q. And they were out taking pictures?

2 A. Yes.

3 Q. Directing your attention to Com Ed Cross

4 Exhibit 1, specifically the fifth page entries,

5 date of read of 12/10 for general service meter

6 082569747. Could you tell us what you had

7 notated on the exhibit when you first received it

8 from Com Ed?

9 MR. BERNET: Your Honor, I think this is beyond

10 the scope of cross. So I'll object.

11 MR. KENNEDY: Well, it's their document, I

12 didn't object to it, your Honor.

13 JUDGE ZABAN: The document is admitted into

14 evidence.

15 BY MR. KENNEDY:

16 Q. Could you tell us --

17 MR. BERNET: What's the question, there is a

18 handwritten note?

19 BY MR. KENNEDY:

20 Q. Right, there is an arrow with the number

21 15346 underlined. Is that your --

22 JUDGE ZABAN: What exhibit is this?

1           MR. BERNET: I don't have that on mine.

2           MR. KENNEDY: That is Exhibit No. 1.

3           JUDGE ZABAN: Cross Exhibit No. 1?

4           MR. KENNEDY: Yes.

5           JUDGE ZABAN: On what page?

6           MR. KENNEDY: Page 5. Date of 12/10, meter

7           0256 --

8           MR. BERNET: Are you referring to the read

9           date, Counsel?

10          MR. KENNEDY: Right, that's the read date, but

11          there is the number 15346 is underlined with an

12          arrow drawn to it.

13          MR. BERNET: My copy doesn't have an arrow

14          drawn to it.

15          JUDGE ZABAN: It's far on the right, it's all

16          the way on the right. Are you talking about where

17          it says was a credit ever issued?

18          MR. KENNEDY: Right. That and one further

19          down.

20          MR. BERNET: It's not on my copy.

21          JUDGE ZABAN: It's on my copy and it's on the

22          copy you gave me.

1 MR. BERNET: Go ahead, no objection.

2 BY MR. KENNEDY:

3 Q. That's your handwriting there,  
4 Mr. Hughes. Could you tell us why you pointed  
5 those two items out and why you wrote that  
6 question in there?

7 A. Well, in reviewing the bill, the demand  
8 read, which is estimated originally it caught my  
9 eye because of the high amount that it was. And  
10 then the next thing that caught my eye was the  
11 fact that if you take 434.99 and -- or you take  
12 741.92 and subtract 434.99 it does not equal 153.  
13 That was also at issue. It's more like 307 and  
14 not 153, but this is what we were being billed.  
15 And then the other meter that was at issue on  
16 that bill was 995308236. Which had a demand of  
17 971.16 and we received the bill for maximum  
18 charge.

19 Q. Do you know what maximum charge means or  
20 consists of?

21 A. No, I do not.

22 Q. Have you ever asked for clarification from



1 Com Ed personnel as to that?

2 A. Yes, I have.

3 Q. And what, if anything, have you been told?

4 A. I have not been given an answer.

5 Q. You were asked on cross examination, or it

6 was pointed out on cross examination that neither

7 your Exhibit A attached to your prepared

8 testimony, nor the prepared testimony has an

9 exact amount in dispute. Can you tell us why

10 that is?

11 A. Because it's virtually impossible to

12 ascertain what these meter readings should be,

13 and with the varying charges that we've received

14 it's hard to calculate out what we should really

15 be paying.

16 Q. Is part of your request for relief in this

17 case, part of Huntington Park's request for

18 relief that Com Ed go through the billing from

19 the beginning of the dispute and prepare an

20 updated billing or correct billing reflecting

21 actual usage, waiving improper late fees and

22 other such items?

1           A.    Yes.

2           Q.    But as you sit here now, other than what  
3   Mr. Dorgan or others have stated in their  
4   testimony, you don't really know what that amount  
5   is?

6           A.    No, I do not.

7           Q.    And once again, you did not -- it was  
8   pointed out in neither your prepared testimony  
9   nor in your Exhibit A did you specify a precise  
10   defect in the meter. Is there a reason why that  
11   was not done?

12          A.    There is a problem at issue somewhere  
13   here. Is it the meter, I don't know. Is it the  
14   readings that are being taken, I don't know.

15          Q.    All right. At any rate, Huntington Park  
16   has not personally undertaken to have any of the  
17   meters checked or verified or anything like that,  
18   have they?

19          A.    No, we have not.

20          Q.    Once again, as to Com Ed Cross Exhibit 4,  
21   which I believe has been admitted, the writing at  
22   the bottom is not yours?

1           A.   No, it is not.

2           Q.   Do you know whether any adjustments were  
3           ever made to the account as the account was  
4           audited?

5           A.   We were never notified.

6           Q.   And the fact that you did not produce this  
7           pursuant to the notice to produce is why?

8           A.   This was in the paid bill file along with  
9           other paid bills.

10          Q.   And these were in fact documents generated  
11          by Com Ed personally?

12          A.   Yes, they were.

13          MR. KENNEDY: I don't have any further  
14          questions, your Honor.

15          JUDGE ZABAN: Okay, Mr. Bernet.

16          MR. BERNET: I have some, but I would like a  
17          moment, your Honor.

18                       (Whereupon, there was  
19                       a short break taken.)

20          JUDGE ZABAN: Okay, Mr. Bernet, are you ready?

21          MR. BERNET: I'm ready, your Honor.

22          JUDGE ZABAN: Okay, let's proceed, back on the

1 record.

2 RECROSS EXAMINATION

3 BY

4 MR. BERNET:

5 Q. Now, Mr. Hughes, directing your attention  
6 to your Exhibit A, attached to your prefiled  
7 direct testimony, and specifically the first page  
8 of Exhibit A, do you see that?

9 A. Yes.

10 Q. See the bill date October 13th, 1998?

11 A. Yes.

12 Q. And the next column over it says all  
13 charges disputed. So what you mean by that is  
14 the bill dated October 13th, 1998, all the  
15 charges are disputed, right?

16 A. Right.

17 Q. Now, directing your attention to Com Ed  
18 Cross Exhibit 2, which was not produced in the  
19 case, I think you testified that this bill, which  
20 has an issue date of -- you see the issue date of  
21 10/13/98?

22 A. On the exhibit, yes, I do.

1           Q.   And so this is the bill with the issue  
2   date October 13th, 1998, right?

3           A.   Yes.

4           Q.   So is this a bill that you dispute or not?

5           A.   Yes.

6           Q.   So it is part of the dispute, right?

7           A.   Yes.

8           Q.   Now, you said this was in the, quote, paid  
9   bill file?

10          A.   Yes.

11          Q.   What's that file?

12          A.   A file with all the paid bills in it.

13          Q.   All the paid bills that Huntington Park  
14   ever paid to Com Ed?

15          A.   No, all the paid bills that they've paid.

16          Q.   For everybody?

17          A.   Yes.

18          Q.   So all utilities -- it's one big file,  
19   it's not segregated between companies who have  
20   been paid?

21          A.   No.

22          Q.   It's just one big file?

1           A.    Yes, sir.

2           Q.    How big is the file?

3           A.    For that particular month, or in general?

4           Q.    How big is the file relating to the period

5   that you dispute in this case?

6           A.    Five, six boxes.

7           Q.    Bankers boxes?

8           A.    Yeah.

9           Q.    And you didn't review that in connection

10   with your response to Com Ed's data requests?

11          A.    No, I did not.

12          Q.    And at some point you decided to review

13   that file before you came today?

14          A.    If I recollect correctly it was probably

15   maybe three or four weeks ago.

16          Q.    And so three or four weeks ago you found

17   this document?

18          JUDGE ZABAN: And by that document you are

19   referring to Exhibit 4?

20          MR. BERNET: Com Ed Cross Exhibit 2.

21          THE WITNESS:   Yes.

22   BY MR. BERNET:

1           Q.   And you didn't produce it to Com Ed, you  
2   didn't supplement your response to the data  
3   requests?

4           A.   This says paid bill.

5           Q.   Do you understand my question?

6           A.   No, we did not provide it to you.

7           Q.   And let's talk about Com Ed Cross Exhibit  
8   4.   That's a two-page document, it's also a  
9   document that was produced for the first time  
10   today, right?

11          A.   Yes.

12          Q.   And that document was also in the paid  
13   bill file, right?

14          A.   That is correct.

15          Q.   And how long ago did you find this  
16   document?

17          A.   At the same time.

18          Q.   Were there any other documents relative to  
19   this case that you found in the paid bill file?

20          A.   Not that I'm aware of.

21          Q.   And this document, Cross Exhibit 4, this  
22   is a document that relates to this dispute,

1       doesn't it?

2           A.   I did not think so at the time.

3           MR. BERNET: I'm sorry, can you read that back,  
4       please?

5           JUDGE ZABAN: His response was I didn't think  
6       so at the time.

7       BY MR. BERNET:

8           Q.   You didn't think so three or four weeks  
9       ago?

10          A.   No.

11          Q.   Then why did you bring it today?

12          A.   I brought everything that was on my desk.

13          Q.   Is that part of the paid bill file that is  
14       in front of you there?

15          A.   No, it is not.

16          Q.   Okay, so this -- these two documents were  
17       the only part of the paid bill file that was on  
18       your desk three weeks ago related to this case?

19          A.   No.   If you consider a paid bill to  
20       Commonwealth Edison that was in the paid bill  
21       file to be relevant to this case, that is sitting  
22       in a box on my desk or was next to my desk when I



1       went through it and found this, yes.

2           Q.   Okay.  Is it your testimony today that  
3       with respect to every other document relevant to  
4       this case that is in the paid bill file, you have  
5       produced?

6           A.   No, we have not produced the actual paid  
7       bills that are in the file for Commonwealth  
8       Edison.

9           Q.   Anything else you haven't produced?

10          A.   Not that I'm aware of.

11          Q.   On redirect, Mr. -- counsel asked you  
12       about your ability to include a dollar amount in  
13       your direct testimony and attached Exhibit A.  So  
14       is it your testimony, sir, that it was absolutely  
15       impossible for you to identify a single dollar  
16       amount when you filed your direct testimony?

17          A.   I suppose I could have made an estimated  
18       guess.

19          Q.   So it was impossible?

20          A.   Being the magnitude of the errors, I think  
21       so.

22          Q.   And Mr. Kennedy asked you also about your

1     inability to identify, I think the word he used  
2     was precise defect, in any meter, that's what he  
3     asked you?

4         A.    Yes.

5         Q.    Truth is you don't identify any defect in  
6     a meter in your direct testimony; isn't that  
7     right?

8         A.    That is correct.

9         Q.    Directing your attention to Com Ed Cross  
10    Exhibit No. 1, and specifically Page 5 of that  
11    document. Now, you've testified that -- do you  
12    have that page?

13        A.    Yes, I do.

14        Q.    You testified earlier on redirect about  
15    the meter that is about halfway down that page,  
16    No. 8082369747. And when you read across, you  
17    have drawn a line up to the 153.46, do you see  
18    that?

19        A.    Yes, I do.

20        Q.    And I think you testified that one of the  
21    things that you had a problem with was that bill  
22    amount, right?

1           A.   Absolutely.

2           Q.   That you got billed for 153.46 in demand,  
3   right?

4           A.   Yes.

5           Q.   And you testified that the difference  
6   between the previous reading and the present  
7   reading was roughly 307 in demand, right?

8           A.   Correct.

9           Q.   So isn't it true that Com Ed actually  
10   billed you less than its meter readings show, by  
11   half?

12          A.   I think they overbilled us is what I  
13   think.

14          Q.   That's not my question.  My question is  
15   between taking the difference between 741.92 and  
16   434.99 you testified that that difference was in  
17   the magnitude of 307, correct?

18          A.   Yes.

19          Q.   And Com Ed didn't bill you for 307 demand,  
20   right, they billed you for 153.46, right?

21          A.   That is what it says here, yes.

22          Q.   That's what they billed you for, right,

1       that's your understanding?

2           A.    Yes.

3           Q.    And that's roughly half of the difference

4       between those two numbers?

5           A.    Correct.

6           Q.    Directing your attention to the line at

7       the bottom, do you see where the difference

8       971.-- I'm sorry, where the reading 971.16 and

9       that relates to meter No. 995308236, do you see

10      that line?

11          A.    Yes, I do.

12          Q.    Com Ed subsequently adjusted that billed

13      amount, didn't it?

14          A.    It never appeared on a bill.

15          Q.    That's your testimony?

16          A.    Yes.

17          Q.    It never appeared on a bill to Huntington

18      Park Apartments?

19          A.    Correct.

20          Q.    Do you know if it ever appeared on a bill

21      to Mid American Management?

22          A.    Not that I'm aware of.

1           Q.   And the account number that appears at the  
2           top of that bill is actually Mid America  
3           Management's account number, right?

4           A.   It says Huntington Park Apartments.

5           Q.   But on top of Huntington Park Apartments.

6           A.   Mid American Management, yes.

7           Q.   And that's the account number, we can walk  
8           back through it, but I'll submit to you that's  
9           the same account number that we talked about  
10          earlier that was the Mid America Management  
11          account number.

12          A.   That was the account number for Huntington  
13          Park Apartments.

14          Q.   Directing your attention to Com Ed Cross  
15          Exhibit No. 3, I would like you to pull that out  
16          and we'll compare it to Cross Exhibit 2.  So  
17          looking at the account number on Cross Exhibit 3,  
18          for Huntington -- the name on that account is  
19          Huntington Park Apartments, isn't it?

20          A.   Yes, it is.

21          Q.   And the account number is 8087754012,  
22          right?

1           A.   Yes, it is.

2           Q.   And that account number is different than  
3   the account number that's on Cross Exhibit 2,  
4   right?

5           A.   Yes, it is.

6           Q.   But it's your understanding that the  
7   account number on Cross Exhibit 2 is not Mid  
8   America Management's account number?

9           A.   It's Huntington Park's account number.

10          Q.   So it's your testimony today that both of  
11   these accounts are Huntington Park Apartment  
12   account numbers?

13          A.   Yes.

14          Q.   Okay.   So whatever was billed on Account  
15   No. 8087754003 to Mid America Management under  
16   that account number was Huntington Park's  
17   responsibility?

18          A.   Yes.

19          Q.   Do you know whether or not Com Ed ever  
20   wrote off approximately \$9,000 on the outstanding  
21   balance that Mid America Management owed?

22          A.   No, I do not.

1 MR. BERNET: Nothing further, your Honor.

2 JUDGE ZABAN: Mr. Hughes, I have a number of  
3 questions.

4 EXAMINATION

5 BY

6 JUDGE ZABAN:

7 Q. Between July of 1997 and July of 1998, did  
8 you have anything to do with Huntington  
9 Apartments?

10 A. No.

11 Q. Do you know who was in charge of managing  
12 during that period of time?

13 A. It was Mid America Management.

14 Q. So even after the property was sold, Mid  
15 America Management continued to manage the  
16 property; is that correct?

17 A. This is correct.

18 Q. So in July of 1998 you took over as  
19 managing consultant; is that correct?

20 A. The owner of the property took over  
21 management of his property.

22 Q. In spite of the fact that he owned it?

1           A.   Yes.   Well, he was going to run it  
2   himself.

3           Q.   And then he hired you as a consultant; is  
4   that correct?

5           A.   I've been working with him since then,  
6   yes.

7           Q.   And you also indicated to us that you work  
8   approximately 20 hours a week at Hughes  
9   Management -- Hughes and associates, correct?

10          A.   Yes, sir.

11          Q.   And you sell real estate?

12          A.   Occasionally, yes.

13          Q.   And you take no fee for doing any of this?

14          A.   For what?

15          Q.   For working for Hughes.

16          A.   No.

17          Q.   So you just give your time, 20 hours a  
18   week, to Hughes for no fee?

19          A.   That's correct.

20          Q.   Now, when you took over in July of 1998,  
21   the bills were being sent to Mid America  
22   Management; is that correct?



1           A.    This is correct.

2           Q.    And you made a request sometime subsequent  
3           to your working there to have the bills put over  
4           to the new name of Huntington Apartments?

5           A.    In July of '98.

6           Q.    Is that correct?

7           A.    Yes.

8           Q.    And then it took a period of time then  
9           before the actual transfer on the bills; is that  
10          right?

11          A.    We contacted them in July, we contacted  
12          them in November --

13          Q.    Well, I didn't ask you, I just asked you,  
14          it took a period of time, correct, until the  
15          actual transfer from Mid America to Huntington  
16          took place on the bills; is that correct?

17          A.    Yes.

18          Q.    So when you see the name Mid America  
19          Management on Account 8087754003, that was  
20          actually at the Huntington Apartment account the  
21          entire time?

22          A.    Correct.

1           Q.   And had been the Huntington Park  
2   Apartments' account since July of '97 when they  
3   bought the building?

4           A.   To the best of my knowledge, yes.

5           Q.   Now, this amount that you dispute in  
6   October of 1998, the 10,543.70, that was the  
7   amount that was the subject of your first  
8   installment agreement with Com Ed; is that  
9   correct?

10          A.   Correct.

11          Q.   And you paid that amount; is that right?

12          A.   Yes.

13          Q.   Now, I'm looking at -- what had been  
14   marked as Cross Exhibit No. 3, which shows an  
15   account of 8086654012?

16          A.   Yes.

17          Q.   Do you know how that account came to be?

18          A.   They assigned it to us.

19          Q.   And that was intended to replace 7754003?

20          A.   4012, I guess, replaced 4003, yes.

21          Q.   Now, I want you to look at the bill  
22   dated -- Cross Exhibit No. 8, which is

1       8087754030.

2           A.   Yes, sir.

3           Q.   When did you acquire that account?

4           A.   When they gave it to us.  I mean,

5       sometime -- I mean, these account numbers kept

6       changing.

7           Q.   So sometime after acquiring 4012 you were

8       given the account of 4030; is that correct?

9           A.   Correct.

10          Q.   I want you to look at what has been marked

11       as Complainant's Number 2, and that's account

12       0023 on Page 1?

13          A.   Yes.

14          Q.   Where did that account come from?

15          A.   I don't know.

16          Q.   How about starting on Page 5, 0039, do you

17       know where that account came from?

18          A.   No.

19          Q.   I want you to look at Page 8, the 2042

20       account, do you know where that one came from?

21          A.   No.

22          Q.   The next page, 2018, do you know where

1       that account came from?

2           A.   No.   I mean, when you are asking me that,

3       do you mean do I know where this address is?

4           Q.   I know where the address is, were you ever

5       notified of that account?

6           A.   No.

7           Q.   0039?

8           A.   No.

9           Q.   And 4021?

10          A.   No.

11          Q.   We've got 2042, do you know about that

12       account?

13          A.   No.

14          Q.   Let me ask you a question, on the bills

15       listed on Cross Exhibits 1 through 8, these are

16       all general service billing, is that correct, is

17       that what it indicates?

18          A.   Yes.

19          Q.   What is your understand what general

20       service means?

21          A.   It's a common area, it's just a general

22       public -- public areas, common areas is my

1 understanding of that.

2 Q. Would they be commercial accounts as  
3 opposed to residential accounts, if you know?

4 A. It's a residential property. I have other  
5 residential that I'm involved with, other  
6 residential properties that, you know, get --  
7 it's a residential property.

8 Q. In the accounts that I have listed here,  
9 in Complainant's Exhibit 2, if you would look  
10 through Exhibit 2, these all appear to be general  
11 residential; is that correct?

12 A. That is correct.

13 Q. Or residential general?

14 A. Yes.

15 Q. Do you know what the distinction between  
16 those two is -- those two are?

17 A. Well, I am beginning to find out --

18 Q. Well, I didn't ask you. Do you know  
19 offhand right now what it is?

20 A. Yes, I do. This is for a single family  
21 home or a residence, and I guess the general is  
22 anything other.

1           Q. Let me take you to your exhibit, your  
2 Exhibit A where you complain about the various  
3 charges. On October 13th, you indicated the  
4 billing date you indicate all charges are  
5 disputed; is that correct?

6           A. Yes.

7           Q. You paid that bill, didn't you?

8           A. Yes, we did.

9           Q. Did you send a letter of protest to  
10 Commonwealth Edison?

11          A. I contacted Commonwealth Edison.

12          Q. Did you have anything in writing  
13 indicating that you were disputing the bill of  
14 October?

15          A. I spoke with Katrina.

16          Q. I'm asking you was there any written  
17 letter sent to Commonwealth Edison?

18          A. Not that I'm aware are of, no.

19          Q. In fact, this particular thing you  
20 contacted Commonwealth Edison and entered into an  
21 installment agreement with them to pay that off,  
22 did you not, the bill of October 1998?

1           A.   Yes.   The bill we received from October of  
2   1998 which contained four months, because of a  
3   computer system problem, as I was told.

4           Q.   The point is you agreed -- you entered  
5   into an installment agreement and you paid that  
6   amount?

7           A.   Yes.

8           Q.   Now, when you indicated that in a lot of  
9   these that the demand charges are inconsistent  
10   with earlier bills, what do you mean by that?  
11   And in particular the February 16th of 1999.

12          A.   February 16th, 1999?

13          Q.   Look on your Exhibit A, Mr. Hughes.

14          A.   Oh, I'm sorry.   Yes, it says that they are  
15   inconsistent with earlier bills.

16          Q.   How did you determine they were  
17   inconsistent, what was your basis?

18          A.   The demand charges.

19          Q.   But how were they inconsistent, and how  
20   did you determine?

21          A.   Because they were substantially higher  
22   based on the previous readings.

1           Q.   And in spite of the fact did you determine  
2   whether or not there had been more usage of the  
3   common areas during that same period of time?

4           A.   There had in fact been some that had been  
5   less usage.

6           Q.   And how were you able to make that  
7   determination?

8           A.   According to the readings here on the  
9   previous bill.

10          Q.   Well, no, that's not what I'm asking you.  
11   You say they are inconsistent with earlier bills,  
12   so what I'm asking you is did you make the  
13   determination on what you thought that the  
14   average amount should be?

15          A.   Yes.

16          Q.   And so based on that average, you thought  
17   that they should be consistently in the same  
18   range; is that correct?

19          A.   That is correct.

20          Q.   Did you do any kind of studies or talk to  
21   any of the tenants in terms of whether or not  
22   they had used lights or lights had previously



1     been burnt out or lights had been left on in the  
2     common areas that previously had not been left  
3     on?

4         A.   We did do an energy survey by checking the  
5     water heater temperatures and the lighting, and  
6     converted some to fluorescent, we removed some  
7     electric heaters, and the usage continued to  
8     climb.

9         Q.   And my question then is, did you ever  
10    reduce that energy survey to writing?

11        A.   No.

12        Q.   You've indicated that you don't know how  
13    demand charges are calculated. Did you ever hire  
14    a consultant or consult a professional who is  
15    familiar with the way these things are done to  
16    determine how the charges reflected or how the  
17    charges were come to?

18        A.   I spoke to an electrician and he told me  
19    that the demand was basically a reflection of the  
20    use and how much was being used at one time.

21        Q.   Well, did you ever hire anybody to come  
22    out -- did you ever hire anybody to look at these

1 bills to make any type of determination whether  
2 they were unusual based on the other usage in  
3 your area?

4 A. No, I did not.

5 Q. Now, there was some testimony regarding  
6 the Cross Exhibit No. 4, and the installment  
7 agreement that you had entered into with  
8 Commonwealth Edison. Did you recall that  
9 document?

10 A. Yes.

11 Q. And Mr. Bernet, I think, had indicated  
12 that his records showed that you paid  
13 approximately \$3800 on that bill, and you thought  
14 that you weren't sure, but it may have been more;  
15 is that correct?

16 A. Yes.

17 Q. Did you honor the entire installment  
18 agreement?

19 A. No.

20 Q. And this called for 24 months of finance  
21 charges -- with no finance charge. Approximately  
22 how many months out of the 24 did you pay?

1           A.    I don't recall.

2           Q.    Mr. Hughes, this is your business; is that  
3           correct?

4           A.    Yes.

5           Q.    Did you consult with anybody at Huntington  
6           Apartments to find out exactly how much had been  
7           paid?

8           A.    No, I did not.

9           Q.    Let me ask you a question, in your  
10          capacity as a manager for Huntington Apartments  
11          are you in charge of finance?

12          A.    No, I am not.

13          Q.    Do you have the authority to write checks?

14          A.    No, I do not.

15          Q.    So you do not have personal knowledge  
16          about any checks that may have been written to  
17          Commonwealth Edison?

18          A.    That is correct.

19          Q.    Did you contact anyone at Huntington  
20          Apartments and attempt to obtain any bank records  
21          to verify the amounts that have been paid?

22          A.    No, I did not.

1           Q.   Now, you've indicated that you maintain an  
2   office at Huntington Apartments where you are  
3   there once a week; is that correct?

4           A.   Yes.

5           Q.   And there was some indication that in  
6   Exhibit 4 you received a fax from Commonwealth  
7   Edison, is that right, regarding the settlement  
8   -- the installment agreement?

9           A.   Yes.

10          Q.   And where did you receive that fax, if you  
11   recall?

12          A.   In my office in Prospect Heights.

13          Q.   So that you also, in addition to having an  
14   office at Huntington Apartments, you have an  
15   office in Prospect Heights?

16          A.   That's what Hughes and Associates is.

17          Q.   So that the bills, number 275 -- or the  
18   Post Office Box 275 actually goes to Hughes and  
19   Associates; is that correct?

20          A.   No, that box is specifically for  
21   Huntington Park Apartments.

22          Q.   But it's right near your office?

1           A.   It's right by my office and there are two  
2 people that have keys, I am one of them.

3           Q.   And did you write to Commonwealth Edison  
4 at any time to complain about the bills being  
5 sent to 1281 North Nantucket?

6           A.   Did I write them? We may have faxed them.

7           Q.   Do you have a copy of that document that  
8 you sent to them?

9           A.   No, sir, I do not.

10          Q.   Is it fair to say based on Cross Exhibit  
11 No. 7 and Cross Exhibit No. 8, that from at least  
12 April 1st of 1999 until June of 2000, the bills  
13 were continued to be sent to 1281 North  
14 Nantucket?

15          A.   I'm sorry, the date, June?

16          Q.   From -- actually March of 1999 to June 8th  
17 of 2000, the bills were being sent to the  
18 Huntington Park Apartments at North Nantucket?

19          A.   No. There is a definite time period that  
20 they were being sent to Massachusetts.

21          Q.   Do you know when that period was?

22          A.   October through March of 2000.

1           Q.   And when did you eventually receive those  
2   bills?

3           A.   Some of them we never received.

4           Q.   Do you recall which ones specifically you  
5   never received?

6           A.   November, December, January and February.

7           Q.   And do you know who they were sent to in  
8   Massachusetts?

9           A.   Through the correspondence that we  
10   received in discovery.

11          Q.   Do you know who they were sent to?

12          A.   Aspen Square Management.

13          Q.   And Aspen Square Management never  
14   forwarded those bills to you?

15          A.   No, they did not, they paid the bills.

16          Q.   Aspen Square paid the bills?

17          A.   Yes, they did.

18          Q.   Did you ever make any adjustments with  
19   Aspen Square?

20          A.   No, Commonwealth Edison was to rebill us  
21   for that, which they never did.

22          Q.   And as we sit here today you have never

1     been billed for November, December, January and  
2     February of 1999 and 2000?

3           A.   To the best of my knowledge, yes.

4           Q.   So in response to the question they fall  
5     into two categories and you say F, received no  
6     bills in the two years of provision of service  
7     for the time frame of 9/99 through March 8th of  
8     2000.

9           A.   That's an incorrect date.

10          Q.   What are the dates?

11          A.   We did receive a lumped together bill that  
12     was dated from mid February of 2000 that included  
13     February, March and I think April of 2000 that  
14     Jerry Dorgan rebilled us on.

15          Q.   But during this period of time, and I'm  
16     talking about -- so let's talk about September  
17     through February of 2000.

18          A.   Yes.

19          Q.   Where you claim you didn't receive a bill,  
20     Commonwealth Edison didn't ask you for any money  
21     anyway, did they?

22          A.   No.

1 JUDGE ZABAN: I have nothing further of  
2 Mr. Hughes at this point.

3 MR. KENNEDY: Just a couple, if I could.

4 FURTHER REDIRECT EXAMINATION

5 BY

6 MR. KENNEDY:

7 Q. Mr. Hughes, you testified about having  
8 located the paid-up bills or folder or bankers  
9 box several weeks ago. Which office did you find  
10 them at?

11 A. They were going to be archived from our  
12 office to the warehouse.

13 Q. But where were they located when you found  
14 them?

15 A. The boxes were in the storage at our  
16 office.

17 Q. In Prospect Heights?

18 A. In Prospect Heights, yes.

19 Q. And these are all the paid-up bills for  
20 the respective time period?

21 A. Yes.

22 Q. And how did you happen to find the two



1 documents that you produced today?

2 A. I was going through the file boxes.

3 MR. KENNEDY: I have nothing further.

4 JUDGE ZABAN: Mr. Bernet.

5 MR. BERNET: Thank you, your Honor, just a few  
6 things.

7 FURTHER RECROSS EXAMINATION

8 BY

9 MR. BERNET:

10 Q. Mr. Hughes, you've been in the real estate  
11 consulting business for how many years?

12 A. Eighteen.

13 Q. And during that time, how much of your  
14 consulting related to residential apartment  
15 buildings?

16 A. Most of it.

17 Q. And right now, how many residential  
18 apartments are you responsible for managing?

19 A. Probably 800.

20 Q. And is it fair to say that over your  
21 18-year career, managing real estate, residential  
22 real estate, apartments, you've been managing

1       roughly that number per year for that whole time?

2       A.    I would say less.

3       Q.    How much less?

4       A.    25 percent.

5       Q.    Okay.    So somewhere between 5 and 800

6       during that 18-year period?

7       A.    4 or 500, yes.

8       Q.    And all of those apartments are in Com

9       Ed's service territory?

10      A.    Yes, they are.

11      Q.    And sometimes tenants move out without

12      paying their electric bill, right, you are aware

13      of that situation happening?

14      A.    Yes.

15      Q.    It's -- actually it's fairly common, isn't

16      it?

17      A.    Yes.

18      Q.    Is isn't it common for someone in the real

19      estate consulting business to set up a separate

20      account with Com Ed so that when a tenant moves

21      out without paying their electric bill that

22      service can be transferred to another account so

1     that the power doesn't get shut off so that you  
2     can show the apartment?

3         A.   No.

4         Q.   That's not common?

5         A.   No.

6         Q.   And in your 18 years of experience  
7     managing up to 800 apartments per year, you have  
8     never recommended that?

9         A.   No.

10        Q.   And you are not aware of any of your  
11   clients engaging in that practice?

12        A.   No.

13        Q.   And you don't know, Judge Zaban asked you  
14   about numerous residential accounts, and I think  
15   you testified you didn't know where those came  
16   from. Do you know one way or the other, sir,  
17   whether or not those accounts were set up for the  
18   purpose I just described?

19        A.   No, they were not set up for that purpose.

20        Q.   Do you know what purpose they were set up  
21   for?

22        A.   No.

1           Q. But you know they weren't set up for that  
2           purpose, you just don't know what purpose they  
3           were set up for?

4           A. To the best of my knowledge, we didn't set  
5           up the accounts.

6           Q. You weren't responsible for setting those  
7           accounts up?

8           A. Correct.

9           Q. So you have no information about those  
10          accounts, how they originated?

11          A. To the best of my knowledge, we didn't  
12          authorize nor did we request those accounts be  
13          set up, no.

14          Q. Well, let me ask you this, during that  
15          time frame, was there anybody else that was  
16          authorized on behalf of Huntington Park  
17          Apartments to set up accounts with Com Ed?

18          A. No.

19          Q. So these just got set up mysteriously?

20          A. Those specific account numbers, they were  
21          not set up by us.

22          Q. So there must have been somebody else

1 authorized to set up accounts with Commonwealth  
2 Edison in the name of Huntington Park Apartments?

3 JUDGE ZABAN: Okay, well, that assumes a fact  
4 not in evidence.

5 MR. BERNET: Withdrawn.

6

7 BY MR. BERNET:

8 Q. Now, Mr. Hughes, you testified a few  
9 minutes ago that you conducted an energy survey,  
10 you evaluated energy usage in the Huntington Park  
11 Apartments; is that right?

12 A. That is correct.

13 Q. And when did that happen?

14 A. September, October, November of 1998.

15 Q. Did you disclose that study in any  
16 response to a data request in this case?

17 A. No.

18 MR. BERNET: I have nothing further, your  
19 Honor.

20 JUDGE ZABAN: Actually, I have just a couple  
21 more real quick questions, Mr. Hughes.

22

1                   FURTHER EXAMINATION

2                   BY

3                   JUDGE ZABAN:

4           Q.   Mr. Hughes, do you know the date that you  
5   filed the informal complain in this matter?

6           A.   April of 2000.

7           Q.   My second question is, you then filed a  
8   formal complaint after this couldn't be resolved;  
9   is that correct?

10          A.   That's correct.

11          Q.   This is the formal complaint that you  
12   filed or a copy of the formal complaint you  
13   filed?

14          A.   Yes, sir.

15          Q.   Did anybody assist you in filling out this  
16   complaint?

17          A.   No, they did not.

18          Q.   Mr. Kennedy was not your attorney at that  
19   time?

20          A.   No, he was not.

21          Q.   And specifically the address you are  
22   complaining about is 1281 Nantucket Road, Aurora;

1     is that correct?

2         A.   That is the -- yes.

3         Q.   And how did you ascertain that address?

4         A.   From the service location on the bill.

5         Q.   On the bill.   And you mentioned the

6     account 8087504030; is that correct?

7         A.   That is correct.

8         Q.   And that was the most current account in a

9     series of commercial accounts starting back to

10    the Mid America accounts; is that correct?

11        A.   Yes.

12        Q.   Does your complaint encompass any of the

13    residential accounts?

14        A.   I thought we were, yes.

15        Q.   Does it mention -- does it mention any of

16    the residential accounts by name or number?

17        A.   No, it does not.

18        JUDGE ZABAN: That's it, I have nothing

19    further.

20        MR. KENNEDY: Just two, briefly.

21

22

1                   FURTHER REDIRECT EXAMINATION

2                   BY

3                   MR. KENNEDY:

4           Q.   The survey that you performed, there was  
5   no written report or there is no written results,  
6   there is nothing other than what's in your head  
7   as far as the outcome of the test, was it?

8           A.   That's correct.

9           Q.   And you performed this in September,  
10   October, November of 1998. Can you tell us why,  
11   if there is a reason, why?

12          A.   Well, we have found that when you review  
13   your energy consumption that you can of course  
14   reduce your energy costs. By converting some of  
15   the hallway fixtures to fluorescent and turning  
16   down the water heaters and things like that, and  
17   removing -- disconnecting unnecessary hallway  
18   heaters that it should reduce our bill.

19          Q.   But there was no -- the outcome was not  
20   reduced to writing or e-mailed or anything like  
21   that, was it?

22          A.   No, sir.



1           MR. KENNEDY: I don't have anything further.

2           MR. BERNET: Your Honor, can I see a copy of  
3           that formal complaint, please? I have no further  
4           questions, your Honor.

5           JUDGE ZABAN: Any questions, Mr. Kennedy?

6           MR. KENNEDY: I have nothing further, your  
7           Honor.

8                         (Witness excused.)

9           JUDGE ZABAN: Okay, Mr. Bernet.

10          MR. BERNET: At this time, and based upon the  
11          state of the record, after prefiled testimony,  
12          Com Ed would move for a directed verdict.

13                       Under Article 2, Section 1110 of the  
14          Illinois Rules of Civil Procedure, at the close  
15          of plaintiff's case in a non-jury trial the  
16          defendant may move for and the court may grant a  
17          directed verdict. The question is whether  
18          plaintiff has presented a prima facia case. And  
19          the site for that is Diditch versus Crystal Green  
20          Corp, 211 Ill. App. 3rd, 474.

21                       Here Com Ed submits that in order to  
22          meet its burden Huntington Park must prove by a

1     preponderance of the evidence that there was a  
2     meter error or a billing error. And that as a  
3     result of that billing error or meter error  
4     Huntington Park was incorrectly charges and the  
5     amount of incorrect charges is quantified. Also  
6     the subject of the complaint must be clear and  
7     must contain all of the issue that are in  
8     dispute.

9             And as your Honor pointed out, the  
10    formal complaint contains no information  
11    concerning the residential accounts that Mr.  
12    Hughes testified about on supplemental direct  
13    today. Nor does his direct prefiled testimony  
14    and attached exhibits contain that.

15            Huntington Park filed three and a half  
16    pages of direct testimony, the case has been  
17    pending for well over a year, a three and a half  
18    page exhibit that Com Ed itself had to put  
19    together. There is no evidence that there was any  
20    meter malfunction. The testimony doesn't even  
21    claim that a meter malfunctioned at any time.  
22    There is no evidence of a single meter reading in

1 the testimony. There is no evidence that Com Ed  
2 improperly billed. No Com Ed bills are attached  
3 to the testimony. Huntington Park does not  
4 mention a dollar amount that Com Ed billed it or  
5 an amount that it disputes. The damages are  
6 totally unquantifiable.

7 Your Honor, Com Ed submits that the  
8 testimony amounts to nothing more than Mr.  
9 Hughes' speculation about what Mr. Hughes'  
10 believes in his unqualified opinion constitutes  
11 high charges or improper charges.

12 Because a single dollar amount is not  
13 mentioned, it is impossible for the Commission to  
14 quantify any amount in dispute or afford any  
15 relief. On this record, plaintiff has not met  
16 his burden of proof, and the complaint should be  
17 dismissed with prejudice.

18 JUDGE ZABAN: Mr. Kennedy, you may respond.

19 MR. KENNEDY: Yes, briefly, your Honor, we view  
20 the motion for directed verdict as being similar  
21 in scope to that of a motion for summary  
22 judgment. It's in the discretion of the court.

1 The court -- and it's the most drastic of all  
2 remedies resulting in Draconian outcome, if you  
3 will.

4 We believe that viewing the evidence as  
5 produced today, putting aside the fact that the  
6 informal complaint was filed pro se, but viewing  
7 the evidence as produced today we think there are  
8 substantial allegations, substantiated  
9 allegations as well, as far as billing problems.  
10 Bills sent to the wrong address, bills sent to  
11 the wrong state, multiple accounts being issued.  
12 My count is seven different accounts being  
13 issued. Despite innuendo we do not admit or do  
14 not accept the fact that Huntington kept asking  
15 for different accounts during the same time  
16 period. The one exhibit that has been admitted  
17 as Complainant's Exhibit 2 I think shows at least  
18 five different account numbers. Mr. Hughes  
19 testified that he has no idea as to when these  
20 accounts were issued or why they came from.

21 We think that there is testimony,  
22 evidence that there was failure to credit

1     payments. That the amount of damages are not  
2     ascertainable. What we ask for is actually more  
3     in the nature of equitable relief. We would --  
4     we asked in our prayer for relief to have Com Ed  
5     credit payments made, to recalculate where late  
6     fees were assessed as a result of being sent  
7     either to Massachusetts or to entities other than  
8     Huntington Park.

9             So we think that it's premature and it's  
10    certainly within the discretion of the court to  
11    weigh these things. But I think if you use the  
12    traditional standard under summary judgment, we  
13    think that there is at least enough evidence that  
14    has been introduced during complainant's case in  
15    chief to merit the presentation of both  
16    responsive testimony by Com Ed as well as to  
17    allow the complainant to at a later point in time  
18    to address the issues raised in its rebuttal  
19    testimony.

20            JUDGE ZABAN: Okay.

21            MR. BERNET: Your Honor, may I?

22            JUDGE ZABAN: Yes, go ahead.

1           MR. BERNET: Couple things. First of all, I  
2     think counsel is incorrect that the summary  
3     judgment standard applies here. This is not a  
4     motion for summary judgment, it is a motion for a  
5     judgment on the evidence. It is not -- plaintiff  
6     is not entitled to any kind of deference or he's  
7     not entitled to have the court review the  
8     evidence in the light more favorable to the  
9     complainant. This motion is absolutely not  
10    premature.

11                 How many times do they want bites at the  
12    apple? We've been doing this for over a year,  
13    this is absolutely the right time to make a  
14    motion for directed verdict, your Honor.

15           JUDGE ZABAN: Actually, Mr. Bernet, it is the  
16    right time to make a motion for a directed  
17    verdict. However, I also think that the standard  
18    here is the complainant has to make a prima facia  
19    case. And I look at this, and I still have some  
20    questions about some of the things that are going  
21    on here.

22                 And on that basis, what I'm going to do

1 is let's continue with this case tomorrow, at the  
2 end of that period of time, I will allow you to  
3 renew your motion. And also because of the  
4 nature of this being an administrative hearing,  
5 and all the information needs to come out at all  
6 times, I will reserve my ruling on your motion  
7 for directed verdict, but I will allow you to  
8 renew it at the end of your case.

9 MR. BERNET: Thank you, your Honor.

10 JUDGE ZABAN: All right. Tomorrow we have  
11 three witnesses and Mr. Hughes' rebuttal. You  
12 actually have two witnesses, correct?

13 MR. BERNET: We have three, but I think  
14 Mr. Kennedy indicated that he did not anticipate  
15 cross examination of Mr. Childress.

16 JUDGE ZABAN: That's the meter reader?

17 MR. BERNET: Yes. So the only thing I would  
18 say, your Honor, is I have not had a chance to  
19 review the rebuttal testimony. It is my  
20 intention, to the extent we are able to do this,  
21 to read it tonight, prepare whatever I need to  
22 prepare, and, you know, do additional direct with

1     our witnesses or additional cross with Mr. Hughes  
2     and get this over with tomorrow.

3           JUDGE ZABAN: If we can finish it tomorrow, we  
4     will.

5           MR. BERNET: But what I'm saying is --

6           JUDGE ZABAN: But I'm not going to hold you to  
7     that.

8           MR. BERNET: I'm going to make an effort to do  
9     that.

10          JUDGE ZABAN: I've already indicated to you  
11     because of the circumstances I will grant you  
12     additional time do it if necessary. So if you  
13     find that you can't do it, I'm more than happy to  
14     do it.

15          MR. KENNEDY: Might I point out two things,  
16     your Honor. I have been countermanded by my  
17     client indicating that he wants me to question  
18     Mr. Childress based upon his testimony. I did  
19     not intend for him to be here today, but I have  
20     been told otherwise by my client. I've also been  
21     told by my client that he does have a commitment  
22     which will preclude him from being here tomorrow



1     and I don't know where we are going based upon  
2     that.

3             JUDGE ZABAN: Are you unavailable all day,  
4     Mr. Hughes?

5             THE WITNESS: I have a vacation planned and  
6     I'm supposed to be leaving tomorrow morning.

7             MR. BERNET: Your Honor, we obviously --  
8     obviously we anticipated that this would be over  
9     today.

10            JUDGE ZABAN: Off the record.

11                     (Whereupon, there was an  
12                     off-the-record discussion.)

13            JUDGE ZABAN: Back on the record.

14                     (Witness sworn.)

15                     RICKEY CHILDRESS,  
16     called as a witness herein, having been first  
17     duly sworn, was examined and testified as  
18     follows:

19                     DIRECT EXAMINATION

20                     BY

21                     MR. BERNET:

22            Q. Good afternoon, Mr. Childress, can you

1 state your name and spell your last name for the  
2 record, please?

3 A. My name is Rickey, R-i-c-k-e-y, Childress,  
4 C-h-i-l-d-r-e-s-s.

5 Q. I'm going to hand you what we're going to  
6 mark as Com Ed Exhibit 1. Do you recognize that  
7 document, sir?

8 A. Yes, sir.

9 Q. Can you tell me what that is?

10 A. It's the testimony I gave answering the  
11 questions.

12 Q. That document was prepared by you or at  
13 your direction?

14 A. Correct.

15 Q. And if I were to ask you today questions  
16 that are contained in that document, would your  
17 answers be the same?

18 A. It would be the same, yeah.

19 MR. BERNET: Thank you. Your Honor, I tender  
20 Mr. Childress for cross.

21 JUDGE ZABAN: Okay, Mr. Kennedy.

22

1 CROSS EXAMINATION

2 BY

3 MR. KENNEDY:

4 Q. Just briefly. Good afternoon,  
5 Mr. Childress. What was this exhibit?

6 JUDGE ZABAN: 1.

7 MR. BERNET: Com Ed 1.

8 MR. KENNEDY: Thank you.

9 BY MR. KENNEDY:

10 Q. Mr. Childress, on Page 3 of your testimony  
11 in response to how the demand meters were read,  
12 you indicated when you read the meter, you return  
13 the next month and expect to find the same seal  
14 on the demand reset that you left the prior  
15 month, you then break the seal. Is the seal that  
16 you are talking about the same reddish seal that  
17 he broke?

18 A. Yes.

19 MR. BERNET: Just so the record is clear, the  
20 seal that Mr. Hughes broke?

21 MR. KENNEDY: Mr. Hughes broke, yes.

22 BY MR. KENNEDY:

1           Q.   Following up on that, on the top of Page  
2   4, your answer to question -- from counsel as to  
3   what you observed during the readings of the  
4   demand meters at Huntington Park, you've stated,  
5   quote, I have noticed that each month that I read  
6   the meters, one or two of the demand seals are  
7   missing.

8                   The meters with the missing seals vary  
9   from month to month, but every month at least one  
10   meter has a missing demand seal. In addition, I  
11   recall several occasions where the left and found  
12   readings on the demand meter were not identical.  
13   There are arguably between 11 and 16 meters on  
14   this -- at this premises; is that correct?

15          A.   Yes.

16          Q.   And every month when you would go to read  
17   these meters, at least one would have a broken  
18   demand seal on it?

19          A.   Yes, sir.

20          Q.   Did you -- what does a broken demand  
21   meter -- you've had years of experience, what  
22   does a broken demand seal indicate to you?

1       A.   The seal that we put on locks, it's a  
2       plastic one like he did pulling it off.  When I  
3       walk up to read the meter, I look and it should  
4       be sealed with the same color of what I had the  
5       previous month, knowing nobody has touched it.  
6       When it's broken, somebody has touched it.

7       Q.   Were the meters that you are talking  
8       about, were they in secured locations or were  
9       they in locations open to the public, if you  
10      will, or open to general population?

11      A.   The buildings have a code on the back door  
12      and the front door and you have to enter with a  
13      code to get access inside the building down to  
14      the laundry room.

15      Q.   All of the meters are located in the  
16      laundry room, are they?

17      A.   Yes, sir.

18      Q.   And has the access been so limited as long  
19      as you have been reading them at Huntington Park?

20      A.   Yes.  We've had to either had a code or a  
21      key to access into the building.

22      Q.   Did you ever report either to Huntington

1 Park or to your supervisors the fact that every  
2 month you would go out and one of the demand  
3 seals, at least one of the demand sales, would be  
4 broken?

5 A. I record it in my hand held, there is a  
6 screen that says demand seal broken.

7 Q. You didn't happen to bring those records  
8 with you today to the trial?

9 A. I don't know, I just read the meter.

10 Q. You read the meter and then you enter it  
11 into your hand held instrument?

12 A. Yes, sir.

13 Q. And presumably it's reported to your  
14 supervisors at Commonwealth Edison?

15 A. I put it on a board and wherever that  
16 information goes, I don't know.

17 Q. And you've been reading their meters for  
18 approximately four years?

19 A. Correct.

20 Q. During that time you never approached  
21 management or anyone at Huntington Park to report  
22 the fact that there was always at least one meter

1 with a broken seal?

2 A. No, sir, I just read the meters.

3 Q. So you have not accused the management at  
4 Huntington Park of tampering with the meter?

5 A. It's not my job.

6 Q. With your experience, both the four years  
7 at Huntington Park, and even prior to that with  
8 other instances, are broken demand meters, could  
9 that be an indication of tampering?

10 MR. BERNET: Objection, beyond the scope.

11 JUDGE ZABAN: If he knows.

12 BY MR. KENNEDY:

13 Q. If you know.

14 A. I don't know.

15 Q. Do you retain your records as to the  
16 entries that you make into your little hand held  
17 beyond a week?

18 A. I don't know. My job is just to go out  
19 and read the meters and put it into the cradle  
20 and the information is gone somewhere else.

21 Q. During your -- the course of your duties  
22 at Com Ed, have you ever recommended either to

1 Com Ed or to the management of a location that  
2 due to ongoing broken demand seals that the  
3 meters be secured?

4 MR. BERNET: Objection, again, beyond the  
5 scope. He's not testifying about any other  
6 locations. You've already asked and answered  
7 questions about what he's done in response to  
8 broken seals.

9 MR. KENNEDY: Well, your Honor he's  
10 testified --

11 JUDGE ZABAN: Have you ever gone to your  
12 supervisor and recommended that they be secured,  
13 the meters be secured?

14 THE WITNESS: No, that's what the hand held is  
15 for, to put the information in there.

16 MR. KENNEDY: I don't have any other questions.

17 MR. BERNET: No redirect, your Honor.

18 JUDGE ZABAN: I have one question,  
19 Mr. Childress.

20

21

22



1 EXAMINATION

2 BY

3 JUDGE ZABAN:

4 Q. What is the affect of a seal broken on a  
5 demand meter?

6 A. When a seal is put on it's supposed to  
7 show that we've been there and nobody is messing  
8 with it and when I go back it should still be  
9 there.

10 Q. Assuming that a seal is broken, does that  
11 affect the meter reading?

12 A. If a seal is broken?

13 Q. Right.

14 A. I don't know. I don't know if that's all  
15 they did to it.

16 Q. So you can't tell merely by looking and  
17 seeing the fact that a seal is broken that  
18 anything has been changed on the meter; is that  
19 correct?

20 A. The only way I can do it is by the read,  
21 and if the found reading that comes on is the  
22 same it will say 0. And if it changes, then I

1 log that in my hand held also.

2 Q. And what does a change mean, do you have  
3 any idea what that means?

4 A. I don't know, I honestly don't know. I  
5 would be guessing.

6 Q. I just want to know what you know. So if  
7 you see a change you just note the change and  
8 that's it, correct?

9 A. Yes, sir.

10 JUDGE ZABAN: I have nothing further.

11 MR. BERNET: Your Honor I just have a couple  
12 questions on redirect, and I'll refer Mr.  
13 Childress to what was previously mark as Com Ed  
14 6, which is a demand meter.

15 REDIRECT EXAMINATION

16 BY

17 MR. BERNET:

18 Q. Mr. Childress, maybe it would be helpful  
19 for Judge Zaban if you indicated what you do when  
20 you go out to read the meter. Can you just  
21 demonstrate that for us?

22 A. Whenever I walk up to a meter, the dials

1     on the top are what they call a kilowatt, that's  
2     what I've been told and I just read that. Then  
3     the screen will show certain numbers, and I've  
4     only been told to read No. 4 and No. 5. Four is  
5     the one that should be of the previous movement  
6     and -- I'm sorry, 4 is this one, 5 -- the read is  
7     No. 4 that comes up there and I read it. And  
8     then if it's the same, which it should be, it  
9     says 0, I'll punch it in, it will say 0 use.

10             If another number comes in there I put  
11     it into my hand held and the computer either  
12     accepts it or beeps and I read what it says. It  
13     says high low and I enter that in and I just go  
14     on to the next meter.

15             JUDGE ZABAN: So you really do nothing else but  
16     read the meters?

17             THE WITNESS: That's correct.

18             BY MR. BERNET:

19             Q. So the number that's displayed, that is an  
20     electronic readout, correct?

21             A. Yes.

22             Q. And the number that is displayed there

1     should be the number that you saw when you left  
2     the meter the prior month, correct?

3         A.    Yes.

4         Q.    And so if it's different -- well, strike  
5     that.

6               After you record that number, can you  
7     show us what you do next?

8         A.    Then I do like he did that and I hit  
9     reset.    It will say reset, put that back on and  
10    then put the seal back on, and then when it shows  
11    up again I read it, and then I go on to the next  
12    meter.

13        Q.    So does that mean when you hit reset the  
14    meter then runs and it will tell you what the  
15    leave value should be?

16        A.    Left, yeah.

17        Q.    So the difference is how much demand was  
18    used during that month?

19        A.    Correct.

20        MR. BERNET: Nothing further.

21

22

1                   RECROSS EXAMINATION

2                   BY

3                   MR. KENNEDY:

4           Q.   Just one on recross.  In reading the  
5   meters at Huntington, was the found read, I think  
6   you called it, ever different than the one that  
7   showed up currently?

8           A.   At times.

9           Q.   You indicated that on at least a monthly  
10   basis, at least one of the seals would be broken.  
11   Was there a difference between the found and the  
12   expected read every month when you showed up?

13          A.   It would be hard to tell you because like  
14   I said I read 280 meters.

15          MR. KENNEDY: Okay, I don't have anything  
16   further.

17                   FURTHER EXAMINATION

18                   BY

19                   JUDGE ZABAN:

20          Q.   Mr. Childress, just if you know, if you  
21   press reset that reduces the demand to 0, is that  
22   correct or if you know?

1           A.   It should go higher because of the usage.  
2   It's 0 is what I left it last month, and when I  
3   punch it it should go up.

4           Q.   It should give you what the demand is,  
5   right?

6           A.   Right.

7           Q.   And then when you reset it to when you  
8   leave, do you set it back to 0?

9           A.   No, I just go back and seal it and that  
10   read that I have right there when I come back  
11   next month, it should be the same.

12          Q.   So your resetting it doesn't affect the  
13   demand, as far as you know?

14          A.   It just shows me the difference of what I  
15   found and then when I punch it it will show me  
16   what the cum, I guess you'd call it, and then I  
17   go on and read the meter and next month that's  
18   what I'll put in as a found again.

19                    FURTHER REDIRECT EXAMINATION

20                    BY

21                    MR. BERNET:

22          Q.   If someone were to hit -- break the seal

1     and put it up just like you just did, and hit the  
2     reset three times, between the time you last read  
3     the meter and you come back to read the meter,  
4     what's the affect of that?

5           A.    I don't know honestly know.

6           JUDGE ZABAN: Okay.

7                   FURTHER RECROSS EXAMINATION

8                   BY

9                   MR. KENNEDY:

10          Q.    So just to follow up, you don't know  
11       whether it makes the readings higher?

12          A.    No, sir.

13          MR. BERNET: At this time, your Honor, I would  
14       move for the admission of Com Ed Exhibit 1 into  
15       evidence.

16          MR. KENNEDY: No objection.

17          JUDGE ZABAN: There being no objection, Com Ed  
18       Exhibit 1 will be admitted into evidence.

19

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21

22

1                   (Whereupon Com Ed  
2                   Exhibit No. 1 was  
3                   marked for identification and  
4                   admitted into evidence  
5                   as of this date.)  
6           JUDGE ZABAN: All right, in light of the fact  
7           that we got rid of Mr. Childress today, we will  
8           reconvene at 10:15. That way you get a little  
9           extra time. Any other problems we need to  
10          resolve before we leave?  
11          MR. BERNET: Not that I'm aware of.  
12          JUDGE ZABAN: Okay, see you all tomorrow.  
13                   (Whereupon the above-entitled  
14                   matter was continued to May 21st,  
15                   2003 at 10:15 a.m.)  
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